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THE PROCEEDINGS OF:

A FORUM ON EQUAL VALUE

SPONSORED BY

THE ONTARIO STATUS OF WOMEN COUNCIL

TORONTO, ONTARIO

FEBRUARY 3 AND 4, 1984


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EQUAL VALUE FORUM

Toronto, Ontario

February 3 - 4, 1984

Sponsored by the Ontario Status of Women Council

Friday, February 3, 1984

Perspectives on Equal Value

Moderator: Dr. Ratna Ray
Director, Women's Bureau
Labour Canada

- Panel:
1. John Whitehouse
Director, Canadian Office
International Labour Organisation
 2. Bob Sloan
Canadian Manufacturers' Association
 3. Rita Cadieux
Canadian Human Rights Commission
 4. Geoffrey Hale
Canadian Organization of Small
Business Inc.
 5. Mary Cornish
Equal Pay Coalition

UNITED STATES GOVERNMENT

DEPARTMENT OF AGRICULTURE

February 1 - 2, 1944

Statement of the Director of the Bureau of Plant Industry

Before the Committee on Agriculture

U. S. Senate

Testimony of the Director of the Bureau of Plant Industry
before the Committee on Agriculture
U. S. Senate

1. The Bureau of Plant Industry is a part of the Department of Agriculture.
2. The Bureau of Plant Industry is responsible for the control of plant diseases and insects.
3. The Bureau of Plant Industry is responsible for the control of plant diseases and insects.

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Saturday, February 4, 1984

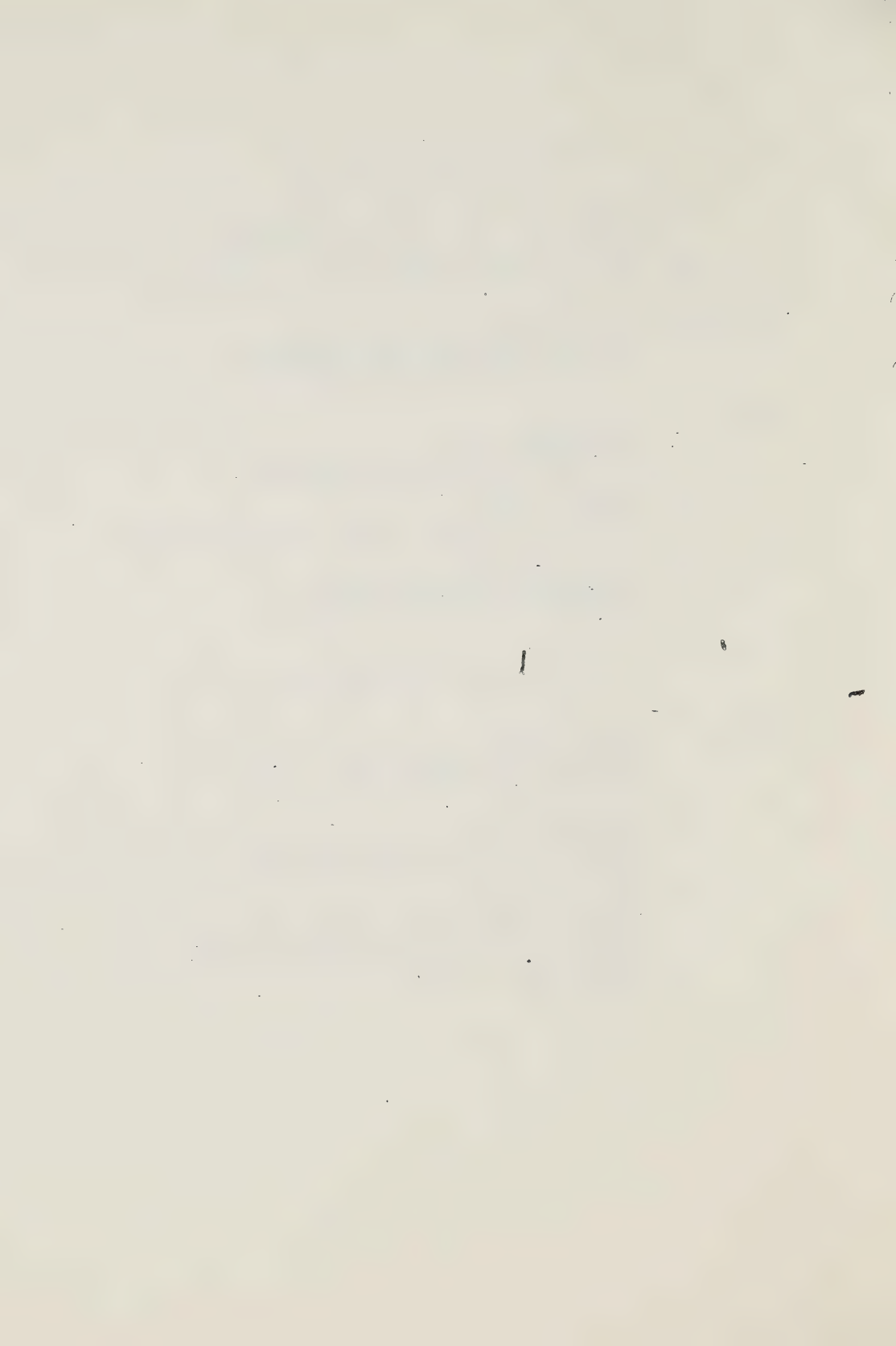
The Wage Gap: Its Causes and Effects
The Administrative Aspects of the Concept

Moderator: Eleanor Ryan
Chairperson, Equal Pay Committee
Ontario Status of Women Council

- Panel:
1. Ted Ulch
Equal Pay Section
Canadian Human Rights Commission
 2. Alberte Ledoyen
Researcher, Quebec Human Rights Commission
 3. John Scott/Doug Kelly
Employment Standards Branch
Ontario Ministry of Labour

How to Reduce the Wage Gap

- Panel:
1. Liz McIntyre
Labour lawyer, speaking on affirmative
action/equal opportunity
 2. Judith Ramirez
Intercede (domestic workers' organization),
speaking on unprotected workers
 3. Edith Johnston
Ontario Federation of Labour and
Responsible for women's issues in the
United Auto Workers, speaking on collective
bargaining



WELCOME ADDRESS
SALLY BARNES
PRESIDENT, ONTARIO STATUS OF WOMEN COUNCIL

Madame Moderator, ladies and gentlemen: On behalf of the Advisory Council, we welcome you to this public forum this evening, and we hope you might be able to return tomorrow as well. At the outset I want to say a special thank-you to Eleanor Ryan and her committee for all their hard work, and I thank you, too -- all of you ladies and gentlemen -- who are helping us with this very complex issue.

I want to express a personal and very warm welcome to the Joint Council of Presidents -- the heads of the Advisory Councils from five other provinces and from the national level. It points out that the subject before us is of interest not just in Ontario but also across the country. Our Council does not delude itself that by the time we leave here tomorrow afternoon, we will have nailed down the causes and solutions involved in the very serious wage gap between men and women. We all know there are many factors that account for it; for example, in Ontario, women earn on average 63 per cent of what men earn. We all know there are many solutions to that problem, none of which is going to be easy, cheap, or exclusive of the other. On the Council we also appreciate the magnitude and complexity of the problem.

There are close to five million women in Ontario, the majority of whom work outside the home. In fact, we make up 44 per cent of the labour force. It is estimated that there are more than 250,000 businesses in Ontario, and the majority of our workers are employed in firms of fewer than 250 people. All of these facts lay out the statement of this evening's discussion: that while there is disagreement on the methods of attacking the wage gap, we believe there is a growing determination by the public -- a very sincere commitment, in fact -- to come to grips with a very serious inequity. The question in our minds -- and we believe the public is of the same mind -- is not whether to deal with the problem, but how. And that is what brings us here this evening. It would be an understatement for me to suggest that the subject of equal pay for work of equal value is a controversial issue here in Ontario and elsewhere.

This issue has become terribly polarized. Our Advisory Council believes that we must continue to learn, to



discuss the subject, to share ideas so that we keep the subject before the public constantly and ensure that solutions are found. Our concern is that while the highly publicized battles over equal value go on, the actual war against the wage gap is not being won. Therefore, we are attempting to examine the whole complex picture, equal value being an important part of it. We are speaking this evening and during tomorrow's session from the point of view of the participants and recognizing the problem our society faces because of the wage gap. We want to work together to find solutions to it.

It goes without saying that the wage gap is short-sighted. In fact, it is immoral for a society to pay its child-care workers less than the people who collect its garbage. This may be a simplistic example of what we are discussing here, but it is the way many of our fellow citizens view this whole subject. This view increases the pressure of responsibility on all of us to work together to help society get its values straight.

The question is not whether we deal with this problem; I do not think that question has ever been asked. The question has always been and remains: How do we do it? We believe it is time to stop viewing this debate in terms of entrenched positions -- of winners and losers. Instead, we hope we might all agree to disagree in some ways, except when it comes to admitting that we have a very serious problem on our hands and that we have to resolve it by working together. On that note I turn this evening's agenda over to our Moderator, knowing she will keep a firm hand on the proceedings and ensure that when we leave here this evening, we will be a little wiser and, hopefully, just a little bit closer to our goal. So I welcome you all. I encourage your participation, and I wish us all well in achieving what I think is a mutual goal, or you would not be here. Thank you very much.

PERSPECTIVES ON EQUAL VALUE

MODERATOR: DR. RATNA RAY
DIRECTOR, WOMEN'S BUREAU
LABOUR CANADA



MODERATOR'S REMARKS
DR. RATNA RAY
DIRECTOR, WOMAN'S BUREAU
LABOUR CANADA

The way I propose to conduct this forum is to ask the panelists to take fifteen to twenty minutes to present their positions. At the end of the presentations, the entire evening is yours. You will introduce yourselves and your organization, if you are affiliated with one, ask questions, and offer comments and/or suggestions. As your moderator for this evening, let me set out the general issues.

The principle of equal pay for work of equal value has created a tremendous amount of interest, education, and controversy. Why do wage gaps persist? Let us start at the beginning. I quote from the Bible, Leviticus 27, 1:4.

What is the debate all about? What are the issues? The principle of equal pay for work of equal value has been under attack as being impossible to apply for many reasons. Let me give you a few. Critics say that a widespread application is incompatible with the supply and demand forces of the market. Some observe that it would create artificial wage rates and jeopardize economic development. It is also said that small- and medium-sized businesses would be unable to meet the resulting demands. One is cautioned that increased costs would result in products being priced out of international markets. Last but not least, one is warned that the determination of value is a highly subjective endeavour and an impossible goal.

Women workers and social development specialists, on the other hand, favour the universal application of the principle of equal pay for work of equal value. They have said that the supply and demand factors have been distorted. Second, they refer to cases of equal pay for work of equal value in Quebec and at the federal level and say that the principle can be applied: Value can be determined by an appropriate job evaluation system. Last but not least, women say that the cost of eliminating the pay differential is not a valid reason for rejecting the principle, thereby paying half of Canada's workforce much less than its work is worth. Why, then, does the wage gap persist?

There are many theories offered by researchers, analysts, and specialists. Most common of these

reasons are: Women choose lower-paying jobs; women work part-time. Some say women are poor risks in the labour market: They come in and go out, therefore do not develop enough seniority, enough attachment to paid work. Some say they do not have enough education. But research at the same time shows that even when one takes into account all these and other reasons, 15 to 20 per cent of the wage differential cannot be explained. Researchers ask if it is because of overt or covert discrimination. You have to decide for yourself.

What are the instruments for narrowing the wage gap in Canada? We have, for example, employment and labour legislation. We have human rights codes and collective bargaining. Some of us have seen a semblance of affirmative action. We also depend on education. "Do these instruments have any limitation?" you may ask. Not all provincial labour or employment legislation contains the principle of equal pay for work of equal value. In 1981, for example, Ontario started beefed-up inspection of the faulty provision in its legislation, and the Ontario Ministry of Labour received close to \$284,000 in a ten-month period. Thirty-two employers were found to be in violation. And this is only in Ontario. You may wish to consider what would happen if every jurisdiction were to beef up enforcement of its present provision for equal pay.

You may also wonder what human rights codes can do. By their very nature, human rights codes depend on complaints; it is a complaint-based mechanism. How many of you would complain? Second, complainers fear reprisal. Third, at least in the case of the federal Human Rights Commission, the system depends primarily on complaints brought or referred by unions.

If you want to depend on collective bargaining, you have to consider this: Less than 27 per cent of women are members of unions. Therefore, even though collective agreements show an increased number of equal pay for work of equal value clauses, the hope that collective bargaining is going to clean up the situation may not be very positive. We all know that in Canada we still have affirmative action, both at provincial and federal levels, on a voluntary basis. Some critics point to education as being a solution to inequality, but that is only postponing the problem -- what happens to women who are in the workplace now? These are some of the considerations that would be useful to bear in mind, as you listen to the panelists and prepare your questions.

The panelists are: John Whitehouse, Bob Sloan, Rita Cadieux, Geoffrey Hale, and Mary Cornish.

JOHN WHITEHOUSE
DIRECTOR, CANADIAN OFFICE
INTERNATIONAL LABOUR ORGANISATION

The purpose of my presentation tonight is not to be partisan but to introduce to you the International Labour Organisation -- in French, Bureau International du Travail -- its administrative headquarters in Geneva, and the Canadian office as a tool and a resource you can use to achieve the objectives of this meeting. It is a tool not only in terms of standard setting, but also in terms of its vast technical advisory services, its technical co-operation programme, its research, and its studies.

I will also give you information on the historical development of the concept of equal pay for work of equal value within the ILO and its embodiment in international law, examine the processes involved when member states adopt and ratify international instruments, and consider national developments within the context of the ILO's Equal Remuneration Convention 100 and Recommendation 90. All interested people should read the Convention and Recommendation extremely carefully, because national and provincial legislation hinge very much on the terms of that Convention. From an international perspective also, consideration of the issue of equal pay for work of equal value through this forum is both timely and relevant, because the United Nations and its family of agencies are in the process of reviewing and appraising the achievements of the United Nations Decade for Women, which concludes in 1985.

The UN submitted a comprehensive questionnaire to all member states in August, 1983 to provide data for a global analysis of the situation of women and to facilitate the deliberations of the forthcoming world conference on the status of women. Part Two of this questionnaire deals with access to employment and conditions of work, and it poses a question that is relevant to this meeting: "Is the principle of equality of remuneration for men and women workers for work of equal value laid down in a constitution or legal provision, and how is it implemented and practised? Please communicate any available statistical data showing earning differentials between men and women." As far as the ILO is concerned, Article 19 of the ILO constitution requires member states to report "...at appropriate intervals as requested by the governing body on unratified

conventions and on recommendations, indicating in their reports the extent to which a fact has been given or is proposed to be given to these instruments."

At its last meeting in November, 1983, the ILO's governing body received a recommendation from its committee on standing orders and application of conventions and recommendations that the Equal Remuneration Convention 100 and Recommendation 90 adopted in 1951 by the ILO be selected as the international instruments on which governments should be requested to report in 1985. This procedure should enable national administrations to review their law and practice and consider possible new measures in the fields concerned. It should also enable the ILO through the committee on the application of conventions and recommendations to carry out general surveys on the effect of these selected instruments in all member states irrespective of whether they have ratified the conventions in question.

Let's look at the formative years of the principle of equal pay for work of equal value within the ILO. It has been a basic objective of the ILO since its founding in 1919 and was recognized as such in the original constitution, which stated that men and women should receive equal remuneration for work of equal value. However, in choosing a question that may be ripe for conference action, the governing body is guided by the representative wishes of governments, employers, and workers' organizations and is assisted in its decisions by surveys of the law and practice in member countries compiled by the Office. In the case of the equal remuneration concept, public representation was made originally by the Economic and Social Council of the UN.

To prepare a question for discussion by the conference, the Office seeks the views of member governments by means of a detailed questionnaire covering all aspects of the matter. In the case of equal pay, as in most cases, the governing body allowed for a double discussion procedure in case people argue that these conventions and instruments are not well-developed or well-considered by the member states. This means that the question is considered by two successive annual sessions of the conference: The first reading covers general principles and the second adopting the final text.

In the deliberations of the conference, workers' and employers' representatives participate on the basis of full equality with governments. The proposed standards are considered in the first instance by a technical

committee, and in the subsequent plenary session a two-thirds majority is required for the adoption of a formal instrument. The conference discussed equal pay in 1950 and 1951, and it adopted Convention 100 in 1951 by 105 votes to 33 and Recommendation 90 by 146 votes to 18.

Conventions are instruments that not only set standards of achievement but also, when ratified by the national authority, create binding national obligations for the country concerned, and there is regular international supervision of the way in which these obligations are fulfilled. A recommendation, on the other hand, gives rise to no binding obligation but provides guidelines for national policies and action.

Convention 100 entered into force on May 23, 1952 after being ratified by the required two states -- in this case Belgium and Mexico. The scope of the principles set forth in the 1951 instrument is defined in Articles 1 and 3 of the Convention. The phrase "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex. It follows, then, that differential rates between workers without regard to sex, the differences determined by objective appraisal in the work to be performed, shall not be considered contrary to the principle. Equality must be applied not only to the basic wage but also to "...any additional emoluments whatsoever, payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the work as employment." That is Article 1.

The obligations of governments are defined in flexible terms in Article 2: Member states should promote the application of the principle by means appropriate to the methods in operation for determining rates of remuneration, that is to say, laws or regulations, legally established or recognized machinery for wage determination, collective agreements, or a combination of these means. Members should ensure the application of the principle to employees of central government departments "...as rapidly as possible in all occupations in which rates of remuneration are subject to statute regulation or public control."

Article 3 of the Convention advocates measures to promote objective appraisal of jobs on the basis of the work performed "...where such action will assist in giving effect to the provisions." The methods to be followed may be decided by the authorities responsible, the determination of rates of remuneration, or where such methods are determined by collective agreements,

by the parties thereto, the main point being to establish a classification of jobs without regard to sex. That is purely and solely the focal point of Convention 100. The Convention specifies "...that each member shall co-operate as appropriate with the employers and workers' organizations concerned for the purpose of giving effect to its provisions."

Recommendation 90 repeatedly emphasizes the need for consultations or the agreement of employers and workers' organizations. In addition, it lists a number of measures to ensure the principle is applied, such as equal or equivalent facilities for vocational guidance, vocational training, and placement, as well as facilities that provide welfare and social services to meet the needs of women workers and promote equality of access to occupations. It is also important to note that the recommendation advises members to make every effort to promote public understanding of the grounds on which it is considered that the principle should be implemented. So as far back as 1951, many of the courses of action that are being recommended now by various committees and groups were already embraced and incorporated within Recommendation 90.

The ultimate aim of the standard-setting process is, of course, that the standard adopted should be accepted as widely as possible and put into effect. The ILO constitution provides for a number of mutually complementary procedures for monitoring the effects of conventions and recommendations adopted by the International Labour Conference. The first procedure governs the submission of conventions and recommendations to the national authorities. It is for the national parliament, the legislative assembly, or congress to decide whether the action of the International Labour Conference should be followed up at the national level by translating international standards into national legislation. In the case of federal states under the ILO constitution, the central government must refer the text to the legislatures within eighteen months and submit a report to the Director-General of the ILO on the steps taken and the results achieved.

Second, there is a procedure whereby member states report on the position of their law and practice with regard to the matters dealt with in conventions and recommendations that they have not ratified. In my introduction I mentioned that the Equal Remuneration Convention 100 and Recommendation 90 have been selected as the standards on which governments must report in 1985. The last general survey covering these instruments was dealt with by the committee at the

sixtieth session of the ILO in 1975; at that time eighty-four countries had ratified Convention 100.

This report, published by the ILO under the title Equal Remuneration and based on the information supplied by 111 states, provides comprehensive information on the achievements, future prospects, and difficulties in implementing the principle of equal pay for work of equal value. This report deals with the national legal provisions giving general effect to the principle: the application of the principle in rates of remuneration subject to statutory regulation of public control; the application of the principle in other sectors; an intervention in wage-fixing systems by virtue of public regulations; equal remuneration; and collective agreements and related measures to facilitate equal implementation of the principle, including objective appraisal of jobs, employment, and social policies.

Third, an important procedure in the application of standards relates to reporting by member states on the measures they have taken to effectively apply conventions they have ratified: That is under Article 22 of the constitution. It is through the ratification of an ILO convention that a member state formally undertakes to make the provisions of the convention both law and practice. Ratifications of an ILO convention are registered by the Director-General, made known to all member states, and communicated to the Secretary-General of the UN. In Canada the question of ratifying Convention 100 was on the agenda of the first meeting of the Deputy Ministers of Labour in 1970. The matter was on the agenda again in 1971 and again in 1972, and on November 16, 1972 Canada formally ratified Convention 100. As a consequence of ratification, states are required to present an annual report of developments.

Fourth, within the ILO's supervisory system, there is a procedure for the governing body to examine complaints by employers and workers' organizations that a member state has failed to apply a ratified convention. Finally, there is also a procedure whereby the governing body can appoint a commission of inquiry to examine a complaint filed by a member state that another state is failing to apply a convention that both have ratified. Similar proceedings can be launched by a governing body or on receipt of a complaint from conference delegates. The conclusions of the equal remuneration report, based on replies from 111 governments in 1975, has been a clear emergence of the development and desire to legislate to ensure respect for the principle of equal remuneration. People are generally less and less inclined to assume

that the part played by the authorities on the one hand and by the parties on the other hand -- collective bargaining -- are mutually exclusive.

In all the countries that rely almost solely on collective bargaining -- I am thinking of the United States and many of the Commonwealth countries, such as the United Kingdom, Australia, New Zealand, and so on -- it is now accepted that the authorities must take an active part in seeing the principle is given effect. It is almost a universal tendency at the moment. While there is general support for the principle of equal remuneration, i.e., that sex discrimination should not be a factor in establishing rates of pay, a persistent obstacle to implementation is the fear of the cost of introducing equal remuneration measures and of equal pay discouraging the employment of women. These are the sort of trends discovered in the analysis of this global survey.

The equal remuneration report concludes that these apprehensions are basically caused by long-standing prejudice against the value of women's work. Where value is a consideration both in law and practice, incentives should be provided to make the employment of women more valued using measures that will help them acquire skills and experience equal to men. Equality of opportunity, therefore, is as important as equality of pay; if the opportunity is not there, then the pay does not follow. The very flexibility of the principle and the fact that the 1951 Convention provided for implementation in stages both offer governments a great deal of room for manoeuvring and cushioning perceived effects. Many countries have opted for a staged approach, but it is a long time since 1951, and many have achieved it in this interim period by stages.

A real difficulty in devising methods to give effect to the equal pay principle in some countries is lack of knowledge of the true situation. In many countries the location, size, and degree of inequalities are ill-defined and the statistics inadequate. Much progress could be made if existing statistical apparatus were better used or if sampling inquiries were used. Efforts could be guided and encouraged by ILO standards and activities in the field of labour statistics. Until quite recently too little attention was paid to the way in which the principle is interpreted by the Convention. Remember: This is a report of 1975 -- almost nine years ago. All too often the principle has been enshrined in law and practice in a simplified fashion in the form of the slogan "equal pay for equal work."

The definition of "equal pay" that is still frequently encountered is "the same work done in the same undertaking or for the same employer." But this is by no means the same thing as understood by the Convention, which tried to give full effect to the principle by defining "work of equal value" as "the fixing of wage rates without discrimination as to sex." That surely is the important point to be made and overcome.

Several countries have hesitated in the face of difficulties of practical application. Adoption of the idea of work of equal value necessarily means comparing jobs, and action should be taken to encourage evaluation on the basis of actual work. No known method is completely objective, but it is not necessary or advantageous for such systems to be complicated. The essential thing is that there should exist in case of need, i.e., when the value of different jobs has to be compared, a simple machinery and a simple procedure, easily understandable, readily accessible, to ensure that the sex of the worker is ignored in that particular rating operation -- very simple.

Today the right to equal pay is acknowledged almost everywhere, but perusal of government reports raises some doubt about the effective practical application of the principle. First, few people may know that the right exists; the 1975 report emphasizes the use of appropriate information media as an essential prerequisite if women are really to be aware of their rights and to exercise them. Second, the means of enforcement were in 1975 inadequate almost everywhere. This may still be the case.

In conclusion, the idea that women should receive pay equal to that received by men when the work done by both is equal in value has been inextricably linked with the ILO since its founding in 1919. A measure of the success of the ILO's international advocacy is the fact that Convention 100 has, as of the end of 1983, been ratified by 105 countries. It is thus among the most widely accepted instruments of the ILO. The concluding remarks of experts on the application of the Convention state that it of all ILO instruments has probably been one of the most influential, if only by indicating a moral standard and offering the statutory foundation for an unquestionably just claim.

Today hardly anyone would seriously challenge the statement that a woman should be paid the same as a man for work of equal value. The economic considerations frequently put forward as an excuse for postponing action are less and less accepted as justifying the

perpetuation of injustice. If economic expansion slows down or stops, there can be no justification for postponing the elimination of inequalities. Indeed, their elimination becomes all the more necessary, because inequality is more shocking and even less tolerable when there is no comfort to be expected from further growth from which all should be expected to profit.

In the final analysis, achievement of social justice depends upon concrete decisions at the appropriate levels of government in consultation with the social partners reflecting the political will of those who subscribe to these objectives. In the broader terms of the ILO, if the right choice is to be made between a world society based on co-operation, the elimination of injustice, and prosperity, and one rife with inequality, poverty, and tension, a resolve to change is of paramount importance and, I submit, will come only through greater public awareness and involvement in the issue. Surely the purposes of this forum can be achieved.

BOB SLOAN
CANADIAN MANUFACTURERS' ASSOCIATION

Thank you very much on behalf of the Canadian Manufacturers' Association to the Ontario Status of Women Council for inviting us here tonight. The CMA is a group of employers' organizations primarily. I am attending as a practitioner -- someone who has dealt with job evaluation and salary administration, knows how the systems are constructed, and knows the pitfalls.

One of the most unfortunate aspects of the equal value debate is that it pits two parties or two points of view against each other. If you are in favour of equal value, then you are in favour of women's rights. If you are against equal value, regardless of the reason, then you have some notion that women should not aspire to participate in the economy on an equal basis.

That is not the issue. - I do not favour the equal value concept, and I hope I can give some reasons why from a practical point of view. The pitting of the two sides may rally support for equal value, but I do not think it is going to help in the debate at all. The CMA is not against women aspiring to participate in the working world on an equal basis, but we certainly have some reservations about equal value. It is our belief that women can and should be an equal force in society -- whether in politics, the professions, or business -- but what we as employers are saying is: The path to such a goal should exclude the unworkable notion of equal value.

That a wage gap exists is an acknowledged and provable fact. There are varying opinions about the extent of the wage gap, but for the purposes of our comments tonight I think we can accept that the wage gap is approximately 40 per cent. The reasons for such a wage gap are deeply rooted in our society and derive from a perfectly understandable set of circumstances. There is no mystery why there is a wage gap; it was not plotted by someone in order to keep women down and prevent them from participating fully. The historical reasons for the wage gap are perfectly understandable -- maybe not acceptable -- and obviously people want to reduce the wage gap, but I do not think it helps if we do not look at the reasons for the wage gap and accept them as being valid up to this time.

The wage gap is diminishing with women's increasing interest in performing traditionally male jobs -- in mining, in trades, in the professions -- and by women acquiring qualifications at community colleges and universities. Perhaps of equal importance is women's awareness that there are no valid reasons why they cannot excel as individuals in any career path they choose, and it is important that women recognize that there are no impediments. There are, however, some impediments in the equal opportunity area, and we will also talk about those, but individually women can aspire to what they want to. I attended lunch today. Robert Welch, Deputy Premier and Minister Responsible for Women's Issues, was there, and he made a comment at the end of his talk: "A woman's place is anywhere she wants to be." Robert Welch is very dynamic and extremely supportive on affirmative action and women's issues.

I believe the wage gap will continue to diminish and that in the data processing area, which does not have a long history of male domination, the statistics would show that the wage gap is significantly less than 40 per cent. Perhaps someone here tonight has done such a study and could share the results with us.

Now let us turn to equal pay for equal work and equal pay for work of equal value. Listening to Mr. Whitehouse, I think Convention 100 is really talking about equal pay for equal work. If you listen to the arguments that are presented and the language of the Convention, I believe what they really mean is equal pay for equal work. The term "value" as it is used in the Convention applies quite well in my view to equal pay for equal work, and I will explain later why I think that is so. To be certain that we are all considering the same basic matter, I will test each of you on the difference of the two concepts as I understand them. Many people interested in this topic have the notion that equal value and equal pay are synonymous, and you do not have to go much further than your own neighbours in the community or the office where you work to realize it.

I mentioned that my position is that equal value is unworkable, and there was horror and the idea that this meant that women should not be given equal pay for equal work. That is a very definite misunderstanding. People support the equal value concept on the basis that it is synonymous with equal pay, and I think this creates the impression that there is a lot of support for equal value as distinct from equal pay, but I do not think this support exists.

Equal pay for equal work is straightforward and is a matter of law under Section 33 of the Ontario Employment Standards Act. The basic concerns are: the same kind of work, in the same establishment, and performance of the job using substantially the same skills, effort, responsibility, and working conditions. Bill 141, which is before the legislative committee, proposes to extend the equal pay concept by adopting a composite test that will enable Ministry of Labour officials to weight the skills, effort, responsibility, and working conditions of a job. As I understand it, if the skills are greater in one job and the effort is greater in another, somehow they will be able to match or evaluate them.

What method will be used to devise the composite test and how effective it will be remain to be seen. I personally predict a rocky road ahead. Some sources have already condemned the composite test, even though its details are not yet known, and that I find somewhat disturbing. Equal pay for work of equal value is, of course, a completely different concept. While philosophically it has some attractions, it is not a concept that lends itself to practical application.

Let me quote from Robert Duffy, writing in the Toronto Star on December 11, 1983 to introduce another opinion. "The whole notion of equal pay for work of equal value is a false ideal. It has been adopted in principle by the Ontario legislature, but nobody has yet found a way to apply the principle in real life. Ottawa and Quebec have the legislation, but it is largely meaningless, and we have heard that the ILO has been interested in equal pay for work of equal value since 1919." Where is the system? How do you implement it? According to Duffy the only remedy for the wage gap is that all women should train themselves for the higher-paying jobs that men do. If equal pay for work of equal value means anything, which it probably does not, then it has to be applied across the board to all jobs without regard to any sexual criteria, although that is another difficulty.

Now we come to the measuring instrument. In October, 1976 the Ontario Ministry of Labour released a discussion paper entitled "Equal Pay for Work of Equal Value." The study found no generally accepted procedures or criteria for measuring the value of different jobs and concluded that without them, it is impossible to make the comparison of wage rates for different occupations that is required to implement the concept of equal pay for work of equal value. There is every reason to believe that that conclusion is still valid today. Now let me give you a couple of practical examples.

I helped implement a job evaluation system in the National Metal Trades Association. This system compares and evaluates jobs that are related: production jobs and trade jobs. After the months-long evaluation the tradesmen ended up with the same number of points as the production workers -- and this is the system designed to eliminate just this situation. The system says the tradesmen should be paid less, but traditionally they are paid more. The system would not allow us to evaluate this situation properly, so we added three wage grades to the tradesmen. That is one of the problems with related jobs.

But in the area of equal value, we are being asked to evaluate entirely unrelated jobs, and it is very difficult. The solution to negotiate extra points for the tradesmen was to maintain what was agreed by the parties to be a valid differentiation. This example demonstrates the impossible task facing those who support placing a value on totally dissimilar jobs. One would have to be very selective and subjective to contrive a system and manipulate the criteria chosen.

I suspect it may be possible to devise in a very narrow and specific situation some form of job evaluation system that would give the desired results, but it would have an extremely limited application and would not meet any of the needs of the universal equal value programme. If you define the results you want, then you can devise a system. But that is manipulative, and it would apply only in a very narrow area. The supporters of equal value say they want a universal system that they can apply not only in Ontario but also throughout Canada. In my view that is practically impossible.

One of the complaints we hear in evaluating men's and women's jobs is that men are required to do heavy work for a certain part of their day, so the employer feels the man deserves more pay. But the Human Rights Commission says assessing the effort required to perform an employee's work shall not normally be affected by the occasional or sporadic performance by that employee of a task that requires additional effort. All the Commission is concerned with is the sporadic performance or the time, but what about evaluating them? Some jobs cannot be done without this extra effort, but equal value people say that you should ignore those aspects of a job that can be done better or only by a man.

The next complaint is about working conditions. Equal value people talk about shift work and say it is noisy, cold. But they do not include a requirement to work

overtime or on shifts when a premium is paid to the employee for such overtime work. If you are paid a premium for shift work, it is not a working condition. But if you are not paid, it is a working condition. These are just examples of the extent to which you have to go in order to justify equal value. I think it has to be very manipulative. If it is such a simple matter to compare totally dissimilar jobs, where is the measuring instrument? What mechanism can be used?

Let us consider cost. It is generally accepted that the portion of the wage gap that is caused by sexual discrimination is roughly 5 per cent and that the other 35 per cent or so is caused by a variety of other factors. If this is so, equal pay for equal work would effectively diminish that portion of the wage gap. We do not need equal value. We have a law in Ontario that requires employers to pay equal pay for equal work. Second, and I have heard this from advocates of equal value, when confronted with the inappropriateness of any job evaluation system, some exclusion should be made for small businesses so as not to saddle the small employer with all the problems that are created. Over 80 per cent of employers in Ontario employ fewer than fifty employees. If you exclude small businesses from implementing equal value, is it really worth all the problems?

When figures of millions of dollars are quoted as the cost of implementing equal value, and when it is stressed that society cannot afford this cost, it is taken to mean that these millions represent wages that women should rightfully be paid. Not so. We are talking about the implementation, administration, enforcement, and prosecution costs -- the millions quoted are merely the tip of the iceberg. Employers cannot afford the results of equal value at this time of economic downturn, and employers will never be able to afford the excesses of equal value. Sheila Copps was recently quoted as saying, "We have gone past the debate of whether it is workable -- now we are debating whether it is worth the cost." Statements like that just fan the flame, because the crux of the issue is that equal value is not workable.

Is it significant that only two jurisdictions in Canada have equal value legislation, and in both instances the legislation is virtually meaningless? Is it significant, too, that only two out of the fifty United States have equal value or comparable worth laws that are not working, either? Is it significant that no one anywhere has developed an equal value measuring instrument despite a debate that has gone on for decades?

I would like to conclude my comments by quoting from a very successful Ontario woman: "Women can no longer be ambivalent about work. They must begin to pursue all career opportunities as vigorously as men. Women must set higher goals for themselves, entering fields of work traditionally dominated by men. Nor do the professions or the employers have any other choice but to welcome them as equals."

In all sincerity, based on the practical difficulties of the equal value concept, people should take another look at it. Make sure you are not really talking about equal pay for equal work, because if you conclude that it has no real relevance to the wage gap, energies now being expended on equal value can be directed toward the real issue of the wage gap.

RITA CADIEUX
CANADIAN HUMAN RIGHTS COMMISSION

Years after our Commission was set up, I was often asked to speak on equal pay for work of equal value. While I was convinced of the importance of the principle and determined to implement it, I was frustrated at having to be very theoretical in my presentations because of our limited experience with the legislation. The claims of our opponents -- that it was impossible to implement such a concept -- were not insurmountable, but they were difficult to rebut. Now, not quite six years later, I still have some frustration because of my impatience to have the concepts adopted in every jurisdiction and implemented in every institution in Canada, but I have no doubts that it is possible to implement. Indeed, our Commission is doing it, and there are several concrete examples that I can give you this evening.

Mr. Whitehouse has given you the historical background of the equal pay for work of equal value concept and legislation. Canada has not only obligation under the ILO Convention 100, but at the end of 1981 it also ratified the convention adopted by the UN General Assembly on December 18, 1979 on the elimination of all forms of discrimination against women. This convention includes an equal pay for work of equal value clause. The reality is, however, that only at the federal level and in Quebec does the law require that men and women be paid equally when they do work of equal value. There is more and more pressure, particularly from women's groups, to have the legislation in other provinces changed. But there are equal pressures on governments from the business community, which is mostly against equal pay for work of equal value legislation, because it is seen as disruptive to the economy and impossible to implement.

Ontario has had equal pay legislation since 1951, but it does not call for equal pay for work of equal value. In Canada's report to the United Nations on the status of compliance with the convention on the elimination of all forms of discrimination against women, the section prepared by Ontario states, "It is the position of the Government of Ontario that the equal value concept cannot be practically implemented through legislation, largely because of the difficulties in the universal application of job evaluation criteria." Discussions on the issue were recently reactivated when the Ontario Minister of Labour introduced an amendment to The Employment Standards Act allowing a composite test of

skill, effort, responsibility, and working conditions to be used to compare jobs that are substantially the same. This advance may be more apparent than real.

Already in Canada, when men and women do the same work they generally receive equal pay. The problem is that most of the time men and women are in completely different sectors of employment. Therefore, you must be able to compare the value of different jobs if the exercise is not to be futile. I am not going to tell you that there are no difficulties in implementing equal pay for work of equal value or that it will be universally applied tomorrow. I am not going to tell you, either, that the equal pay for work of equal value concept is the only solution to the problem of wage disparity between men and women.

I believe that there are a number of other barriers to equality in the workplace, including the difficulty of access to certain categories of jobs and the lack of preparation by women for certain types of employment, largely because of stereotyping in our education. For these reasons, programmes of equal opportunity and affirmative action for women are essential. But while these means are part of the solution, they will not eliminate the pay difference caused by the traditional perception that the work of women has less value than the work of men. This traditional perception has led to lower pay for categories of jobs largely occupied by women.

Statistics continue to confirm this. The average salary of Canadian women working full-time is about 62 per cent of the average salary of full-time male workers. There are several reasons for this difference, not all of them related to discrimination. The following figures from Statistics Canada need no explanation. In 1980 the average income of men with a university degree in Canada was \$29,018, while women with a university degree earned \$15,383. The figures for Ontario are very similar. The average salaries of men and women with a university degree were \$29,583 and \$15,262 respectively. Clearly, the difference in pay between men and women is not always related to education.

Some people contend that the gap between men's and women's wages is caused by women choosing to go into low-paying professional areas and work at dead-end jobs. However, these so-called women's jobs are low-paid because women are performing them. Margaret Mead, the American anthropologist, observed: "There are villages in which men fish and women weave and ones in which women fish and men weave, but in either type

of village the work done by the men is valued higher than the work done by the women." Our society is not that different from the primitive societies studied by Mead. The sex of the person who does the job or of the majority of the persons doing the job determines to a certain degree the value attached to it.

This is precisely what Section 11 of the Canadian Human Rights Act prohibits: "In assessing the value of work performed by employees employed in the same establishment, the criteria to be applied is the composite of skill, effort, and responsibility required in the performance of the work and the conditions under which the work is performed. For greater certainty, sex does not constitute a reasonable factor justifying a difference in wages."

The Canadian Human Rights Act applies to the federal government, federal agencies, Crown corporations, and private corporations that are federally regulated, such as the chartered banks and companies involved in interprovincial transportation and communications. Altogether, about 10 per cent of the Canadian labour force is under federal jurisdiction; the other 90 per cent is under the jurisdiction of provincial governments. It is now nearly six years since it legally became a discriminatory practice for federal-jurisdiction employers to pay male and female employees different wages when they perform work of equal value -- whether the jobs are the same or not. Still, very few employers have reviewed their pay systems, and very few unions are going after equal pay.

Some changes have taken place -- mainly following settlement of complaints filed with our Commission. At last count we had received sixty-one complaints alleging violation of the equal pay provisions of the Act since March, 1978, of which seventeen have been settled, three have been withdrawn, twenty-one have been dismissed, one is awaiting tribunal, and nineteen are still under investigation. The settlement of the seventeen complaints has directly benefited 4600 employees. Voluntary settlements have increased the wages of a further 1300 persons. The settlements have cost in excess of \$20 million in retroactive payments and over \$12 million per annum in ongoing costs. Here are some examples to show how and when the Commission has determined that discrimination has taken place and the kind of redress acceptable under the Act.

On December 12, 1979 the Public Service Alliance of Canada filed a complaint on behalf of the Food Services, Laundry Services, and Miscellaneous Personal Services subgroups of the federal government's General

Services Group. PSAC alleged that the members of these subgroups -- mostly women -- were being paid less than workers in four comparable subgroups -- mostly men.

The employees were distributed over twenty-two geographic zones with up to thirteen levels in each. The classification system established that at any given level, regardless of occupational grouping, all general-service employees were performing work of equal value. However, within each zone and at each level, each of the seven groups was being paid at a different rate. The investigation revealed that with few exceptions, the four male-dominated groups were paid higher than the three female-dominated groups. Workers in the three worst-paid groups -- food, laundry, and miscellaneous personal services -- were mostly women. Workers in the four better-paid groups -- messenger, custodial, building, and stores services -- were mostly men.

The Commission substantiated the complaint in 1980 and asked the complainant and respondent to come up with a proposal that would eliminate pay disparity in the upcoming collective agreement. At the same time the Commission instructed staff to begin seeking settlement. The settlement reached between the two parties had two parts. First, the agreement negotiated between the union and the Treasury Board and ratified in December, 1981 established a single pay rate for all seven subgroups with incremental salary steps at each level. Second, a lump sum was paid as compensation for wages lost between November 15, 1978, one year before the complaint was filed, and December 20, 1980. Payment varied with employee level and subgroup and ranged from \$1361 to \$12,129 per employee for a total potential payment close to \$17 million.

At its September, 1983 meeting the Commission upheld the complaint filed by Local 916 of the Energy and Chemical Workers' Union in Glace Bay against Atomic Energy of Canada Limited. According to this complaint, thirty-one clerks and secretaries, all women, were performing duties of equal value to those of male workers in the same plant but were receiving a lower salary. Because a settlement by conciliation did not seem possible, a human rights tribunal was established to hear the case.

Our latest equal pay settlement was approved by the Commission at its December meeting. Canadian National Railway nurses and X ray technicians have won under \$30,055 in back pay following investigation of their complaints that male paramedics were being paid more while doing work of equal value. The settlement

included back pay retroactive to April 30, 1979, one year before the complaint was filed, reclassification of the nurses' positions with annual increases of \$1400 each, and personal damage awards of \$100 for each complainant. Twenty-three nurses and five X ray technicians benefited from this settlement.

Complaints of wage disparity have not been numerous but will not decrease, because women are becoming more aware of the existence and meaning of Section 11. Furthermore, what initially seemed very complex is being simplified by the information provided by our Commission and certain unions. Complaints will increase unless, of course, employers quickly correct their job evaluation systems to eliminate discrimination. It is very timely -- legislation or no legislation -- for organizations to compare the relative internal worth of different jobs. Well-designed measurement systems do exist and will show whether some female-dominated jobs have relative worth that is equal to or greater than male-dominated jobs. If so, it is easier and less costly to eliminate the differences in pay before a complaint is filed. Even without job-measurement systems, it is often possible and easy to see flagrant injustices.

For example, speed-plate examiners -- all women -- of the British American Bank Note Company in Ottawa were being paid less than the men who swept the floors of the plant. We were denied jurisdiction there, and under Ontario legislation the jobs had to be substantially the same for a complaint to succeed. These women would not have more chance if the composite test proposed in the amendments to the Ontario legislation were to be used, because the work is not substantially the same.

Equal pay for work of equal value legislation is essential. Otherwise, the present discrepancy between men's and women's wages will barely decrease by the year 2000. I am, nevertheless, optimistic that more and more women will understand the concept and know the difference between equal pay for equal work and equal pay for work of equal value. More and more unions will include pay equities between men and women in negotiations, and more and more jurisdictions will include the equal value concept in legislation. Equal value is the human rights issue of the eighties, and I believe that before the end of the decade, significant progress will have been made. Women will not wait much longer, will they?

GEOFFREY HALE
CANADIAN ORGANIZATION OF SMALL BUSINESS INC.

From our point of view at the Canadian Organization of Small Business, there are differing perceptions of the nature of opportunity, the nature of value, and the role that government can and cannot play in determining them. The small business people, who create more than 80 per cent of all the net new jobs in Canada today and who employ more than 40 per cent of the entire workforce in both the public and private sector and more than 60 per cent of the private-sector workforce, share an attitude that is born of experience. The successful women entrepreneurs I deal with every day play an important part in our economy. They share common concerns and objectives in running their businesses and in relating to their competitors, their employees, and governments at all levels. Women who are in business for themselves have twice the success rate in the first five years of business than men.

Part of the debate about equal pay for work of equal value revolves around the kind of objectives we should have for government policy, not just regarding women but also our economy and society as a whole. We share three basic objectives for our economy, society, and the places we work: First, we want a healthy, growing, competitive economy, one that does not have to depend on artificial government protection to survive in the world and to create jobs and opportunities for Canadians.

Our second objective is to maximize productive employment. Jobs are created by the efforts of individuals and groups as well as by customers who are willing to pay the price for the goods and services we have to offer. That reality has hit home in company after company over the last three years. According to the federal Minister of Employment and Immigration, the changes that are taking place in the world will result in the elimination of as many as 55 per cent of existing manufacturing jobs in Ontario, jobs that are at the top of the economic ladder and that are the subject of so much envy in the discussions of relative worth.

The third objective is equality of opportunity for individuals in the workplace and in society. We are speaking of individuals, not statistics. The wage gap reflects certain social factors, some of which are caused by attitudes of society and some by personal

choices that have nothing to do with discrimination and everything to do with an individual's or family's set of values, priorities, and objectives.

In order to achieve these three objectives, we have to balance the end and the means to maximize the common good. While the principle of equality of opportunity is universally agreed, there are a number of choices to make in pursuing equality of opportunity in practice. One choice is between a system of voluntary and co-operative incentives and a voluntary system of organizational co-operation and government coercion. The choice for the small business community is co-operation -- collaboration to improve opportunities for women.

Fifteen years ago there were very few women entrepreneurs or women pursuing careers in large corporations, for reasons of education, family attitudes, and attitudes of older male managers. These attitudes are disappearing fast, and people like yourselves are making them disappear. Many corporate executives are now encouraging the admission and advancement of women in fast-track careers. But the companies concerned shun publicity for fear that this advancement will be attributed to sex and not the ability to do the job. It is not happening as a result of mandatory government affirmative action programmes, although the government may be involved in an informal way.

The head of the Affirmative Action Branch of Canada Employment and Immigration told me that she wished all the voluntary assistance cases that came to the Branch could be credited to their work record. An article in the Globe and Mail pointed out that of 756 corporations approached by the Affirmative Action Branch, only 56 had signed agreements. What it did not say was that 256 of those companies had approached the Branch to see how they could themselves implement affirmative action programmes. This is because of a deep-rooted hostility between business people and civil servants. Mandatory affirmative action legislation is more widespread in the United States, but the voluntary approach is the only approach that will win co-operation and support from small business.

Mr. Whitehouse said there should be a simple, easily accessible, easily applied system to ensure that sex is not a factor in compensation policies. I agree, but if such a system existed, some bright entrepreneur would have found a way to market it by now and would have made a lot of money at the same time. What kind of a law will create a workable, positive, co-operative

approach to improving the career and earning opportunities of women? It should have several features. First of all, self-enforcement is a key to ensuring that equal pay is available to all women in the workplace, not just a tiny minority. The law must have an objective measuring scale by which employers, regardless of the size and resources of their companies, can set up their own systems of compensation and advancement.

I want to mention the recent public discussion of Revenue Canada. The system of equal value currently proposed is extremely complicated. We cannot have a system of fairness and human rights that effectively tramples fairness and human rights in its enforcement. The process must seem to be fair in order to create a climate of fairness. Second, all evaluation systems are by definition subjective, whether used by Alcan, Stelco, or the Government of Canada. We run a considerable risk if we substitute the unilateral discretion of government for the collective bargaining process.

Skill, effort, responsibility, and working conditions create value in a job. So does customer demand: You have to offer your customer a product or service at the price at which you can afford to offer it. Otherwise, your customer will not buy what is produced by the people whose wages have been determined by government evaluation systems. The availability of appropriately skilled employees also creates value in a job. In Northern Ontario, where there is a shortage of skilled people, the price goes up. Where there is a glut of qualified people, the price goes down. The cost of skilled labour varies by locale, industry, sometimes even by year, and it does not fit easily into a "simple, easily accessible, easily applied" system of evaluation.

A third factor that creates value in a job is the willingness of individuals to work for less than the value that might be agreed upon by others. In certain industries in which companies and unions have established a cartel on the supply and demand for labour -- a closed shop -- that value is set, and no one else in those companies can work for that price. People not covered by that cartel will do a job for lower pay if they cannot get a job at the high rate set by the cartel. In Alberta recently and Ontario presently, there is 30 or 40 per cent unemployment in the construction industry. People are taking cuts of \$6 or \$7 per hour in order to work.

The fourth principle of value is the ability to strangle some vital economic activity. That is why people in the Post Office are paid \$23 per hour for doing a rather unskilled job. The same goes for grave diggers.

I would like to suggest some alternatives to equal value that would still improve the earnings and potential of women. We have to improve guidance counselling in our schools. The Ontario government has brought women in non-traditional occupations into the classroom to talk to students, but that is not enough. There must be an intensive programme of co-operative education; guidance counsellors' skills must be upgraded so that they become aware of the opportunities available to women in the workplace. Second, we must improve the incentives for daycare with personal child care tax credits and incentives for employers to sponsor co-operative daycare.

MARY CORNISH
EQUAL PAY COALITION

Many women in this province work in small businesses, and the Equal Pay Coalition is not in favour of any legislation that would exempt those small businesses from the application of equal value legislation. Many women in those small businesses receive some of the most unfair wages in our society.

There is no incredible mystery about how to deal with equal value in small businesses. One simply asks the employer how the jobs are valued. Often it is the case that the employer is paying his female employee "what she was paid the last time." But it is unfair to apply the market system. The market system has always discriminated against women. We cannot say that we should preserve the market system simply because equal pay for work of equal value interferes with it. Of course it interferes with it: The whole point of equal pay for work of equal value is to interfere with the market system that has historically discriminated against women. It is precisely because the market system is allowed to proceed unregistered, as the business community has suggested, that we have the wage gap we do today.

The pressure of the equal value issue has caused members of the business community to talk about daycare and training programmes and women's potential. The women of this province have known for many years that they have potential, and they find it a little ironic that the business community is now deciding that the way to deal with the issue is training and possibly affirmative action, although not mandatory affirmative action.

In the latter part of the seventies, the Ontario government put forward opposition to the equal value pressure, stating that the better route was affirmative action. The Coalition feels that it is quite dangerous for the government to use affirmative action, because it promotes women already in higher positions and does not really affect the situation of the vast majority of working women. It is the position of the Equal Pay Coalition that if women who work in similar jobs are paid the money that is appropriate and of equal value to the men in similar jobs, there will be movement back and forth between job ghettos. The reason men do not work in women's jobs is because those jobs do not pay enough money. The job is valued less because it is

because it is paid less, and the minute it is valued more there will be a movement in and out of job ghettos.

At the present time women's groups are united in the belief that both affirmative action and equal pay for work of equal value are two goals that must proceed together at the same time. On the other hand, the business community and government share identical positions, not wanting any heavy legislative interference. What are the bona fides of this response?

While the business community does not want this kind of legislative interference, it is very content with government programmes that pay business development incentives. It takes advantage of wage controls and government assistance with exporting and importing, etc. The theory of intervention appears to be used only when the intervention works against corporate profit. Therefore, one must be somewhat suspicious of the purely philosophical viewpoint behind the issue of government interference. In fact, as Mr. Whitehouse has said, governments around the world have felt that without legislative interference, companies just are not going to comply. Even with legislation in place, it would take time to get compliance throughout the province. But without legislation there will not be any compliance.

Whereas unions did not want to work toward equal pay for work of equal value when there was nothing forcing them to, now they bargain for it because there is legislation. Thus, legislation has an effect not merely on complaints, but also on collective bargaining. This issue is polarized, and the reasons are similar to those in labour-management relations. If equal pay for work of equal value comes to this province, businesses will have to pay out more money, which they generally do not want to do. The difference in point of view must be sorted out by a political decision.

There has been a lot of discussion about implementing equal pay for work of equal value and about there being no measuring instrument. As Madame Cadieux said earlier, there are measuring instruments; the business community and government must simply be persuaded that they exist. Closing the wage gap will cost a lot of money -- money owing to women in lost wages. And it is women who have traditionally borne the burden of that cost. Mr. Hale wonders who will buy goods and services if these goods and services reflect equal value. If women earned a suitable wage, they would be better able

to buy these goods and services. Women earn only 60 per cent of men's wages, but they do not pay any less at the grocery store for the products they buy with their wages. These consumers -- these women -- must have enough money to afford a decent life, one that men in this country are more likely to have, although not all men are paid fairly, either.

We have heard discussion about the composite test that shows how divergent the points of view are. Mr. Sloan, for example, says it is going to be a lot of trouble. I consider the composite test amendment almost a fraud: It will not give women in this province any significant assistance in dealing with the wage gap. We have heard, too, that one reason the government has delayed bringing in the composite test is because the business community does not like it. So there really is polarization on this issue.

We need a political solution to deal with this situation, because while the business community is making attempts by agreeing to training, etc., it is not agreeing to anything that results in increased wages. The Minister has not shown how the composite test will narrow the wage gap, and, as Mr. Whitehouse has said, the composite test is not equal value. But the Minister says the composite test is equal value among similar jobs. That is just gobbledygook: The legislation is clearly not equal value, and to tell the public it is, is fraud. Two or three years ago the Ontario government put on an advertising campaign about equal pay. People thought there was new legislation, when in fact the government was only advertising the present legislation.

The women of this province are united on the issue of equal pay for work of equal value. It is something they want the government to implement -- immediately and without further delay.

QUESTIONS AND STATEMENTS FROM THE AUDIENCE
AND RESPONSES BY THE PANELISTS

Q. LYNN KAY
NATIONAL ACTION COMMITTEE ON THE STATUS OF WOMEN

Doris Anderson, President of the National Action Committee, has sent a telegram to Sally Barnes urging the Council to protest Ontario's inaction on the equal value laws. Equal value is workable and proven in federal and Quebec jurisdictions. Ontario is out of step and in contravention of international covenant.

The National Action Committee is a group of 270 women's groups across the country that formed after the Royal Commission on the Status of Women. In 1970 the Commission reported on, and included a recommendation for, equal pay for work of equal value, and we are still waiting for action. It was not mentioned tonight that the Ontario government had a task force in the early seventies that recommended implementation. The Ontario legislature passed a resolution committing itself to the principle of equal pay for work of equal value. Then it passed Bill 141, which is an amendment to The Employment Standards Act but which does not incorporate the principle. This questions the credibility of parliamentary procedure. Mary Cornish, would you comment on this?

A. MARY CORNISH

When the Sheila Copps bill was being voted on in the House, Ms. Copps made it very clear to the Members that they were not voting on the principle of equal pay for work of equal value. That had been done both when Bill 3 was passed in 1980 and also when the Ontario government ratified the ILO's Convention 100 in 1972. She made clear that the House was voting on a resolution to provide that equal pay for work of equal value would be enshrined in The Employment Standards Act, and the Members voted in favour of it. The legislation we eventually got was, in no way, shape, or form the implementation of equal value legislation in the Employment Standards Branch. The government wants to appear to be moving, which is why Robert Welch speaks of "staged progress." But this is clearly not the case.

I recently completed a paper on cases at the federal level and in Quebec. In Quebec unequal pay is prohibited on all grounds of discrimination, not just sex. This legislation has been used there mostly in the private sector, and at the federal level it has been used mostly in the public sector. So the legislation is workable in both the private and public sectors, even though the representatives here of Canadian manufacturers and small business are still talking about whether or not this principle can be enshrined. The real discussion should be about timing and getting enforcement underway immediately.

Q. MARION BRYDEN
MPP FOR BEACHES-WOODBINE AND NDP WOMEN'S CRITIC

Mr. Whitehouse, do you agree with Mr. Sloan that Convention 100 really only deals with equal pay and not with equal pay for work of equal value? Second, if the ILO receives complaints that a ratifying country has failed to fully implement the Convention, what sanctions can the ILO impose? If a province fails to implement the convention for employees under its jurisdiction, what pressure can the ILO put on the province? Third, would you consider the unanimous vote in the Ontario legislature last October in favour of the principle as reaffirmation of the ratification of the Convention by Canada and the provinces in 1972? Finally, are there any sanctions the ILO can impose to try to get implementation?

A. JOHN WHITEHOUSE

While I am not in a position to make judgments or statements, you give me the opportunity to correct Mr. Sloan. The quote on the need for a simple and meaningful formula is from the report of a standing committee of twenty experts who came to that conclusion after examining the responses of 111 governments. The last report of the committee of experts on the application of conventions and recommendations differentiates between equal pay for equal work and equal pay for work of equal value. This committee of experts constantly asks for evidence of moving from equal pay for equal work to equal pay for work of equal value. So the experts make that distinction very clear.

The ILO does not apply sanctions. We act as a resource, assisting and advising upon request. Unfortunately, many industrialized countries do not

often request advice, and that is a problem. There is a moral sanction, of course, and a binding obligation. Convention 100 is an international law of obligation, and it is binding. The suggestion that the ILO be a monitoring agency was rejected many years ago. To reply to those people who have expressed surprise that equal value has been discussed since 1919, I can only say that as a creature of 150 states, the ILO can proceed only at the pace and with the mechanisms those member states endorse.

Q. LIZ NEVILLE
BUSINESS AND PROFESSIONAL WOMEN'S CLUBS OF ONTARIO

The association I represent is a member of the Equal Pay Coalition. We support equal value, but we do not want to see a universal system. We entirely approve of the way the federal legislation applies and, indeed, how the equal pay law in Ontario applies: employer by employer.

We also feel that it is perfectly appropriate and fits in with the ILO's Convention 100, because one of its principles is that equal value should be implemented in a way that fits the wage-setting pattern of the individual state. This, as Mary Cornish says, can be changed from time to time when there is recognized need to impose legislation such as restraint. But in Canada and in Ontario in particular this is, except for the minimum wage, largely unregulated and a matter for negotiation between private employers and unions. This is how we would like to see the equal value principle introduced, hoping that it would not take forever to change the traditional pattern of low-paying jobs for women. But we feel it is an equitable solution.

I would like Mr. Hale to comment on how the case of the female bill examiners compared with the male floor sweepers, presented by Madame Cadieux, could be changed other than by a common sense recognition that the two jobs have obvious disparity. The case I am aware of in Ontario -- of cigarette examiners and floor sweepers -- could be changed by more education, the upgrading of guidance counsellors, improving daycare, and improving the entrepreneurship of women.

A. GEOFFREY HALE

In the case of the floor sweepers and the bill inspectors, the floor sweepers' jobs could be subcontracted so that they would be paying a wage closer to the market rate. Second, the bill inspectors could form a union, if they are not already unionized, to negotiate a higher wage. When the CBC, not the most efficient employer, deals with positions that are valued by a union representative in excess of their worth -- jobs done largely by men -- it has found it necessary to subcontract large volumes of work. Subcontracting is a recognized way of dealing with excessive valuation of many jobs that are performed by men or women and allows people to retain work without pricing themselves out of the market.

To address the statement that equal pay for work of equal value will provide more money in salaries for women, I might use the example that plenty of people buy Canadian cars rather than Japanese cars, because they are cheaper. Many Canadians choose to pay a lower price for a product of equal quality.

LIZ NEVILLE

This is the essence of the polarization: I used a specific example, and you have used a specific response, and they can't be generalized across the whole economy. In small businesses particularly, the unit of women employees is far too small to be able to unionize effectively and is probably unwilling to contract out their one floor sweeper.

Q. CARMENSITA HERNANDEZ
TORONTO FILIPINO COMMUNITY CENTRE

As one of the members of the sector that Madame Cadieux, Dr. Ray, and Mary Cornish represent -- and even Mr. Whitehead, because he comes from the Philippines where labour is most oppressed -- I would like to assure Mr. Hale that all of us Canadians -- whether man or woman, black or white -- would like to see a healthy Canada. What I resent is the encouragement of the media: that if we push for equal pay for work of equal value, this would be the downfall of the economy. Perpetretation of this kind of myth divides the community.

I would like to ask Mr. Hale and Mr. Sloan what programmes they have that could be used to approach their fellow business entrepreneurs and manufacturing associations, so that workers could understand the meaning of the phrase "equal pay for work of equal value" without any intimidation between management and worker. In other words, how would you put across your own understanding of the concept to your workers?

A. GEOFFREY HALE

I guess you are asking how employers would convince their employees that their compensation systems are fair and that they are being paid a fair wage for doing their jobs. In small business this is often done by explaining the financial position of the company from one year to the next and by showing employees that there are opportunities to improve their positions, either by working different hours or by moving up to other jobs.

In general, if there is something wrong within the company, it is as much the job of the employee to ask the employer to explain the situation as it is for the employer to put on a sales pitch. The people who do this well have the lowest turnover, the highest productivity, and the most successful businesses. The people who do it badly have the highest turnover, the highest absenteeism, the highest incidence of days lost to sickness, and all the other things that go into a poorly managed workplace. Good communication is a two-way street.

Q. ROBERTA ROBB
ECONOMICS DEPARTMENT, BROCK UNIVERSITY

I would like to address my question to Madame Cadieux, but before that I would like to say that I am aware there is a problem of segregation by sex and occupation in the labour force, and I am very sympathetic to the attempt behind equal value legislation.

If you compare the salaries of males in various departments at Brock University -- for example, the Classics Department, History Department, Economics Department, Business Department -- you will find they are different. Generally, classicists and historians are not paid as much as economists. But if you look at the skill, effort, responsibility, and working conditions of those groups, they are identical. In other words, we are all employed to

teach students to do research, committee work, etc. The Dean's defence of this situation is: "Economists have lots of opportunities elsewhere, and I simply cannot attract an economist to work at the university for the salary I can pay a classicist."

Madame Cadieux, if a male classicist or historian working at a university came to the Human Rights Commission and said that under the equal value legislation he should be paid the same as a male economist who teaches in the business school, how would the Commission deal with that?

There are indeed jobs that by your own definition of equal value are strictly male jobs and that are paid differently, partly because of supply versus demand. If it is true that employers historically pushed women into a very few occupations -- and part of the differential is probably discriminatory because if those jobs were being done by males, they would be better paid -- may part of that differential be because there are just so many women available to do the job? How much of the wage differential may be caused by supply? Some women will pay a price for this, because employers will simply employ fewer of us.

A. RITA CADIEUX

First, I must say that universities do not fall under federal jurisdiction. But if you have a valid complaint, under federal legislation we have to look at a group composed largely of women in comparison with a group composed largely of men, because the Act says it is discriminatory to pay men and women different wages if they do work of equal value. If the historians are complaining against the economists, under equal value legislation you must have in the group of historians a majority of women. The discrimination must be related to sex.

THE WAGE GAP: ITS CAUSES AND EFFECTS

THE ADMINISTRATIVE ASPECTS OF THE CONCEPT

MODERATOR: ELEANOR RYAN
CHAIRPERSON, EQUAL PAY COMMITTEE
ONTARIO STATUS OF WOMEN COUNCIL

TED ULCH
EQUAL PAY SECTION
CANADIAN HUMAN RIGHTS COMMISSION

It is difficult to find something new and unique to say about the concept of equal value. However, let me quote from George Patten -- not the American general, but a woman who, like George Eliot and Georges Sand, adopted the pseudonym "George." In 1874 she commented: "Of late years, employers have made the startling discovery that women of birth and education may be adapted for other uses than those of household ornament and domestic pet. They may be converted, in fact, to sober, industrious, very useful drudges who will work carefully, quickly, thankfully for half the salary that would be required for a man. For ladies, charmed by the prospect of independence and release from the necessity of becoming governesses without a gift for teaching, companions without the requisite cheerfulness or domesticity, or wives without love or respect, flock to the city and pick up the crumbs that fall from businessmen's tables."

In 1928 my mother trained as a nurse in Windsor and received the magnificent sum of \$12 a month, from which she had to buy uniforms, and this was done in exchange for a nominal twelve-hour shift, six days a week.

Has the situation changed? It has changed more than some of us would think, but far less than is necessary to achieve equality between the sexes. Attitudes must change. Here is a very small example of prevailing attitudes: We still pay the boy to whom we entrust our lawn more than the girl to whom we entrust our children. As Mr. Whitehouse told us last night, governments in nearly all western countries have recognized this and passed legislation putting a legal obligation on employers to remove inequalities in the workplace.

In Canada at the federal level, we have had the Canadian Human Rights Act since 1978. It has some features not included in some provincial statutes. Among these is Section 11, which deals with the concept of equal pay for work of equal value. We are deeply committed to the equal value concept, and we firmly believe that anything less than that will not effectively close the wage gap between men and women.

Section 11 of the Act states simply that the employer shall pay male and female employees in the same



establishment who are performing work of equal value equal wages for that work. It specifies how value is to be determined, defines wages, and prohibits certain practices designed to avoid application of the Act. The equal wage guidelines to which Mr. Sloan disparagingly referred last night expand on the definition of value and list a number of factors that we consider reasonable for justifying differences in wages, such as seniority, red-circling situations, and performance pay plans.

The equal pay concept is still not universally accepted. Some parts of society still believe that women should not be paid comparable wages, because for various reasons they do not need or deserve them. Karl Marx put it unequivocally: "Workers should be paid each according to his (sic, ed.) need." There is no place for a means test in the determination of pay; however, that is in effect what we have had for a long time. It has been justified on economic grounds. I am sure most of you are familiar with statistics on women's wages and know that the inequalities in the wage structure and bias in the marketplace are still with us. Equal value legislation is required to address this situation, and it cannot be dealt with under equal pay for equal work laws.

Equal pay for equal work cannot come to grips with inequalities arising from occupational segregation. Only equal value legislation has the potential to eliminate disparities between the so-called pink-collar ghettos and occupations that are male-dominated. I would like to emphasize the phrase "wage disparity." Equal value legislation cannot address the problem of job disparity and therefore cannot completely eliminate the wage gap.

This sometimes comes as a surprise to those who view equal pay for work of equal value as the ultimate solution. Given that the wage gap is 40 per cent -- calculated by taking average earnings of male and female workers -- and given that most women are concentrated in low-paying jobs, it is obvious that even if wage discrimination were eliminated, the portion of the gap caused by job disparity would remain. Equal opportunity and/or affirmative action programmes are required to address the problem as well.

Let us turn to some of the concerns and criticisms we heard last night, such as determination of value. There was considerable discussion of job evaluation plans. The principle objections seem to be these: First, a universal job evaluation plan would be imposed on all employers. Second, a universal job evaluation

plan would not be implemented by all employers. The first objection means that all provincial employers would be forced to pay their employees the same wage. The second objection means that all employers would not be required to pay their employees the same wage, so equality between employers would not be achieved. The federal legislation prevents comparison among employers. Subsection 11.1 states "employees in the same establishment." The Canadian Human Rights Commission has dismissed two complaints where the complainant had sought to make this comparison.

The third objection is that there is no such thing as a truly objective job evaluation plan. That is quite true. Subjectivity can always occur, so the plan must be as free of bias and as objective as possible. I reject the inference made last night that you select the plan to get the results you want. If we did that, we would have substantiated thirty-eight out of thirty-eight complaints instead of seventeen out of thirty-eight. We subject not only evaluation plans but also our evaluators' results to close scrutiny for evidence of bias.

A fourth objection concerns apples and oranges. Occupational apples and oranges have been compared without great difficulty for quite some time. Madame Cadieux referred last night to the General Services Group of the federal public service. That group has an evaluation plan measuring the composite of skill, effort, responsibility, and working conditions -- in other words, the value -- of such diverse occupations as laundry workers, messengers, park wardens, mess stewards, and the chefs at Rideau Hall and 24 Sussex Drive.

I also referred last night to a comparable-worth study carried out for the City of San José by Hay Associates, a group with impeccable credentials in the business community. The Hay Plan is a universal evaluation plan covering all civic employees -- meter readers, secretaries, chemists, grounds keepers, etc.

When I use the phrase "universal evaluation plan," I do not mean a plan to be applied universally to all organizations, but a plan that can be applied to all jobs within an organization. The Commission does not endorse or reject any evaluation plan per se. A plan may be appropriate for one organization and inappropriate for another, which is why we object to a universally applied plan.

A great concern is cost. Certainly it will cost employers money to implement equal value plans in their

organizations. Without being facetious, it is the same amount it is costing their female employees right now in foregone wages. It would be extremely difficult to estimate the global amount that would be required to close the wage gap in Ontario, but injecting money in the form of disposable income into the economy is beneficial to employee, employer, and government alike. The total cost to the economy should therefore not be viewed as dollar cost. Even if you buy a Japanese or German sports coupe with the extra money, there is a multiplier effect, despite what the gentleman said last night.

The Commission does not like to interfere in the collective bargaining process; we much prefer unions and management to work out their own agreements and eliminate discriminatory wage practices without our intervention. Unfortunately, this is not happening. I can think of only three, possibly four, instances: two in the public service, one contract concluded between Cominco and the United Steelworkers, and one municipality in British Columbia.

Another objection is punitive: that settlements can cripple a small business. However, we adopt a reasonable, flexible approach to equal pay settlements. There is little benefit to a group of employees if they win a settlement and then find themselves unemployed because they are then laid off or the firm goes out of business. We also accept phased-in increases in wages if it is convincingly demonstrated that the employer cannot afford to do otherwise. We accepted a phased-in settlement in the General Services Group complaint.

We believe equality will be achieved not only through the resolution of complaints but also through the effect of the settlement of these complaints on the labour market. However, for that effect to occur on a national basis for groups such as nurses, secretaries, data processing clerks -- most of whom are employed by organizations under provincial jurisdiction -- there must be equal value legislation in place in all jurisdictions.

ALBERTE LEDOYEN
RESEARCHER, QUEBEC HUMAN RIGHTS COMMISSION

The Quebec Charter of Human Rights and Freedoms came into force in June, 1976. The Quebec Human Rights Commission has carried out thirty-seven investigations regarding equal pay for equivalent work. Section 19 of the Charter states that every employer must without discrimination grant equal salary or wages to the members of the personnel who perform equivalent work at the same place: "A difference in salary or wages based on experience, seniority, years of service, merit, productivity, or overtime is not considered discriminatory if such criteria are common to all members of the personnel."

Although Section 19 applies to all motives for discrimination, in virtually all cases the complaints were lodged by women, and half of the investigations were undertaken after a group of women lodged complaints. Thirty out of thirty-seven complaints came mainly from the private sector and low-technology fields, such as the food and beverage, paper, and tobacco industries. Six other complaints came from the health and welfare sector and one from a municipal recreational centre.

After investigation, the Commission concluded that twelve of the thirty-seven complaints were not founded. In another five cases, the plaintiffs withdrew. So twenty of the thirty-seven investigations reached the mediation stage. Four of these cases were referred to the tribunal. About 1000 women were directly involved in the settlements, but the number actually benefiting is more than 3500. The average wage gap was \$0.60 per hour, and the gap ranged from \$0.11 to \$1.42. The total amount of the settlements reached about \$500 000. Virtually all the women who benefited from the settlements were unskilled workers. All were unionized, and their unions had supported their members and the Commission's investigation, although some unions had failed to identify the discriminatory wage gap.

In almost all cases, discriminatory wage gaps were found to stem from discrimination in employment policies. Section 16 of the Charter stipulates: "No one may practise discrimination in respect of hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying off, suspension, dismissal, or conditions of

employment of a person or in the establishment of categories or classes of employment."

Most of the time, initial categories of segregated employment gave way to a dual system of employment policies based on sex instead of qualifications or individual potential. These policies had a discriminatory effect on hiring practices, vocational training, promotion, and layoffs and were responsible for part of the wage gap. The difference in wages was part of the enterprise system and, being the last link in the chain, was thought by employers to be normal. Moreover, it became institutionalized by integrating discriminatory clauses into the terms of collective agreements.

While discriminatory clauses in a collective agreement do not necessarily state such disparity according to sex, the Commission found that 4 per cent of all collective agreements in force in Quebec in 1978 contained blatant statements of wage discrimination. It is clear that situations involving discriminatory wage gaps do not stand alone, but seem to be related to a whole system of discrimination, i.e., in a particular plant. Segregation was fairly easy to detect by comparing employment classification and wage levels with the sex of the job performers. When a segregated employment structure was found, it was a good indication of wage discrimination. This was the case in almost all the situations that led to a settlement.

What about job evaluation? When jobs were identical, there was no problem proving that the wage gap was based on sex discrimination. In cases where substantially equal work was found, the equality of jobs was also quite easy to establish by simply comparing jobs. But in order to establish that the wage disparity was discriminatory, the Commission had to in some cases demonstrate that the jobs were of equal value. Up to now the Commission's policy has been to use a company's evaluation system when available, after making sure it has no bias. When there is no such system in use at a company, the Commission applies to each position the standardized task-scoring evaluation system based on the four principal factors.

The Quebec Charter and Section 19 have been in force for almost eight years now, so we can evaluate the feasibility of the principle of equal pay for equivalent work. Let me first point out the problems and applications of the principle as well as the possible solutions.

The first problem in applying Section 19 is the range of the Commission's intervention. Even if our investigations achieve fairly good results, most of the settlements -- indeed, most of the complaints -- come from private, low-technology, and unionized areas. Thus, more than 70 per cent of the female workforce has been excluded from our investigations. The situation is probably much worse in non-unionized, manual areas, so that the women most discriminated against have probably not benefited from equal pay for work of equal value. We also guess that women performing non-manual jobs requiring high qualifications are not likely to lodge complaints, because they are isolated and in a position of individual wage and promotion bargaining, which can conflict with a complaint procedure. A partial solution to this first problem is educational programmes.

A second problem is that once Section 19 is applied, employers in small businesses using low technology introduce new strategies to keep or re-establish a dual system of remuneration. An example is additional tasks imposed on male workers in order to justify the wage gap. Male workers usually agree to these practices to keep their territory free from female intrusion. Of course, this practice can be abolished by applying Section 19 as long as equivalence between jobs can still be proved. However, human factors must be considered. Women who wish to shift into traditionally male jobs generally face great pressure from their fellow workers, so they need support. It is difficult for them to go against culturally rooted practices and stereotypes. And in order to avoid trouble, some enterprises may consider not hiring women any more. One way we avoid this situation is by providing funnel-off studies on the terms of the settlements, so the situation is stable for at least a few years after the settlement.

Our third problem is that most of the investigated cases involved equal or substantially equal work rather than equivalent work. The principle of equivalent work has not been fully used in these eight years. The few cases that could be settled involved manual, directly comparable jobs, but what about tasks that are different in nature, such as clerical and non-clerical blue-collar and white-collar jobs? Only one investigation involved this, and that was the Quebec North Shore case.

In this case there were two position categories in the plant: One was related to clerical tasks, accomplished exclusively by women, while the other was related to manual and technical tasks, accomplished in all but two

of forty-three cases by men. Previously, the two categories of employment had been labelled "female position" and "male position" in the collective agreement. The company used a standardized evaluation system to evaluate the wages according to the tasks of each position, and the evaluation was applied equally to clerical and other jobs.

But although clerical and some non-clerical jobs received exactly the same scoring, we found a systematic wage gap for equal scores between the two categories. This wage gap was based on the company's view that clerical jobs were less important to productivity than manual and technical jobs. After the investigation, parity of wages was established, and now twenty-four women in clerical jobs have had their salaries readjusted according to their job scoring. This case demonstrates the feasibility of fully applying the principle of equal pay for equivalent work, but at the same time the absence of similar cases limits the application of Section 19.

So the fourth problem is our limitation in detecting equivalent work, particularly when jobs are different in nature and when the victims themselves have to detect the discriminatory wage gap. What would have happened at Quebec North Shore if the evaluation had not been applied to clerical jobs or if no evaluation system had been used at all? Would the victims have realized their situation so readily?

Detecting discriminatory wage discrepancies is difficult when pre-employment qualifications are required that are already socially and traditionally evaluated using sexual criteria. The solution to the detection problem could be education, which would also help in applying the principle fully. But even if discriminatory wage discrepancies were eliminated from the labour force, women's position would not change much. There is still the overall wage gap between the sexes and the sexually segregated structure of the labour force, which is responsible most of all for the wage gap.

If Section 19 allows us to intervene in functionally discriminatory situations -- which is indeed a step forward -- it will still take time for women to make up for the ground lost by being trapped in work ghettos ever since entering the labour market. This is an issue completely different from equal pay for work of equal value. A recent amendment to the Quebec Charter of Human Rights provides for mandatory affirmative action programmes, and the Commission hopes it will provide better results.

JOHN SCOTT
EMPLOYMENT STANDARDS BRANCH
ONTARIO MINISTRY OF LABOUR

I would first like to congratulate the committee on its successful conference. Part of the answer to the equal value problem is to hold a forum such as this in order to express your views to government on the problem. As the representative of the Ontario government, I feel a bit in the minority here, and I do not feel I can comment negatively or positively on the concept of true equal value.

Ontario was the first province in Canada to address the problem of equal pay by passing a Female Employees Fair Remuneration Act in 1951. In 1962 equal pay for equal work was incorporated into the Ontario Human Rights Code. Effective January 1, 1969 the equal pay for equal work concept became part of employment standards, and the Employment Standards Branch became responsible for administering the legislation.

The enforcement of the legislation under the Human Rights Code is achieved mainly through the inquiry process. However, that means that employees have to be identified, so it was thought to be more beneficial if the legislation were applied more as a routine examination of the workplace without employees actually being identified. But that is often difficult.

The legislation covers about 90 per cent of employers in the province, from the little corner shop with two or three employees to large organizations of 15 000 employees and the Ontario government. It is set out in Section 33 of the Act, and the provisions, currently under review, state that "no employer or person acting on behalf of an employer shall differentiate between male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee or vice versa." It identifies the areas in which the test shall be applied as "skill, effort, responsibility under similar working conditions," and others. Exceptions to this provision include payment made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or by a differential based on any factor other than sex.

Section 33 has not been very successful. Since March, 1980, when we began applying the legislation, we have received slightly less than 500 complaints. This does

not reflect the seriousness of the situation, so the legislation is not serving its purpose. Perhaps equal pay does not exist to the degree we thought it did, and thus perhaps the legislation should be amended to meet the concept of either the composite test or the test of equal value.

The equal pay amendment has received second reading and will be brought before the House for third reading in the new session. Bill 141 proposes expanding the criteria used to compare work by means of a composite of all the tasks and duties performed by the two employees in the two jobs being compared. Under the current legislation we can compare only skill with skill, effort with effort, responsibility with responsibility. If there is a significant difference in one test area -- for example, effort -- a pay differential is permissible, even if the lower-paid woman uses greater skill or has greater responsibility.

These discriminatory practices cannot be halted under the present legislation. The composite index, while still retaining the requirement that the jobs under comparison be substantially the same in nature, would enable us to address the types of problems in a more thorough and equitable manner by looking at the whole job. If the greater effort of the man was offset by greater skill and/or responsibility of the woman or vice versa, the jobs would be equal for the purposes of the Act, and we could bring pay practices into line.

Bill 141 also contains provisions prohibiting employers from paying a female employee who replaces a male in the same job a lower rate of pay. Under the present legislation, there is nothing that can be done about this or about restricting access to work or excluding employees of one sex from work in order to avoid the application of the equal pay law. The Bill also puts restrictions on the exceptions and states that any claim that a pay differential is based on any factor other than sex must be reasonable and bona fide.

Bill 141 is a realistic, enforceable piece of legislation that will provide greater protection for the working women of Ontario. The composite approach will help us in the Branch and in the Ministry assess the degree of the problem. As far as the equal value concept is concerned, while the adversarial approach is part of the answer to the problem, more could be achieved by an educational programme. However, I do understand the frustration that female workers must feel about the wage gap.

I have not prepared remarks on equal value per se, because there are people here who are more qualified than me to talk about it and because I wanted to limit myself to discussion of the new legislation, which is badly needed. However, we also have to examine the other side of the coin. The changes in equal value legislation are of great impact on small employers, although this does not justify discriminatory wage practices. As director of the Branch responsible for delivering the programme, I am genuinely interested in getting answers to the problem before we have to apply the new legislation. I hope to get some of the answers today.

DOUG KELLY
EMPLOYMENT STANDARDS BRANCH
ONTARIO MINISTRY OF LABOUR

I would like to give you some statistics on the type of activities we in Ontario have been involved with in enforcing equal pay legislation. In 1980 a special team was set up to provide beefed-up enforcement in this area. Since that time we have completed 652 investigations. Of these, 421 were as a result of complaints, and 231 were as a result of Ministry-initiated investigations. With regard to the 421 investigations that were the result of complaints, in almost every case we did a full investigation of the establishment; we did not limit it to the claimant.

Since equal pay has been part of the Employment Standards Act, nearly 9000 employees have received benefits. Since April 1, 1980 we have arranged for pay increases for 1716 employees. The per annum amount of these pay increases is \$1 321 971. Since 1980, 1915 employees have received arrears in pay. So we are extremely active, and because at least 50 per cent of our activities is in non-unionized settings, we are active in the difficult end of the business. Since 1980 we have found and settled 146 cases of violations of the Act. The women who were being discriminated against are no longer being discriminated against. We are very proud of our efforts, and any changes in the legislation will broaden our outlook so that we will be even stronger in the field.

QUESTIONS AND STATEMENTS FROM THE AUDIENCE
AND RESPONSES BY THE PANELISTS

Q. SALLY BARNES
PRESIDENT, ONTARIO STATUS OF WOMEN COUNCIL

Mr. Ulch, quite often the Ontario Status of Women Council says to other women's groups that Ottawa has done such-and-such, so why can we not do it in the provinces? However, Ottawa is not doing very well, either. We were told last night that there had been only sixty-one complaints in six years, just seventeen of which had been settled. Can you tell us how big your enforcement staff is, how many inspectors you have, and how we can drum up more complaints? I am looking for advice as well as answers, because here in Ontario the government is continually arguing that while Quebec and Ottawa have equal value legislation, it is not working. They say \$20 million have been collected, but it probably took twice that much money to collect it. And do you have any statistics to prove that equal value has narrowed the wage gap?

Second, we are continually told that the wage gap in the Ontario public service is 24 per cent without equal value, and if we had a comparable figure for the federal public service, it would really help us. It would be interesting to know if your wage gap is narrower. I would also like to urge you to take part in a publicity campaign so that people can understand the legislation. I am frustrated by travelling in the province and meeting bank tellers, for example, who say to me, "If only we had equal value," and I have to tell them, "You have had it for six years." When is it going to get to the banks?

A. TED ULCH

I do not know why we have had only sixty complaints, and I cannot provide statistics on whether our activities have narrowed the wage gap. We are responsible for only perhaps 11 per cent of the total labour force, so it is difficult to attribute any narrowing of the wage gap to our activities. Regarding the number of complaints, the number of people who have benefited is more significant than the number of complaints filed. The seventeen complaints settled have benefited 4600 people directly and another 13 000 to 14 000

indirectly. The \$20 million you mention is the cost of back payment only. There is also a yearly, ongoing payment of about \$12 to \$13 million.

We investigate all complaints, regardless of grounds. We have about thirty investigators. We have three people in the Equal Pay Section and will be hiring another one shortly; our established strength is five. We provide a consultative service to the investigative staff. Presently, we have filed three complaints against one Crown corporation that, if settled, will benefit over 16 000 people.

In answer to your second question, I do not know why we have not had more activity in the banks; we have had perhaps one or two individual complaints that were not really proper complaints under Section 11, but we have not had one class complaint. Our Public Programmes Branch has recently reorganized and will be actively spreading the word.

Q. LIZ NEVILLE
BUSINESS AND PROFESSIONAL WOMEN'S CLUBS OF ONTARIO

Mr. Ulch, do you think the legislation could be more successful at the federal level if the Equal Pay Section had the same kind of investigatory powers as the Employment Standards Branch?

A. TED ULCH

One of the reasons why there are only a few complaints under the federal legislation is because it works only through the complaint system. The province's activities are more effective because they are very serious audits. They are founded on some reason for being there -- for example, the obviousness of the disparity in the employer's job classification reports, etc.

The Canadian Human Rights Commission has the power to initiate complaints if we have reasonable grounds to believe there is discriminatory practice. We have not had the resources to do that so far, but they have been augmented recently, so we will certainly consider initiating complaints.

Q. MARION BRYDEN
MPP FOR BEACHES-WOODBINE AND NDP WOMEN'S CRITIC

I sat on the committee that listened to the hearings this January on the proposed amendment to the Ontario equal pay law. About 95 per cent of the briefs we heard said that the amendment would not make a very great difference in the application of the equal pay law and the number of people covered by it.

Mr. Scott, can you estimate how many additional women might be covered by the amendment? Mr. Kelly told us that one in four investigations revealed violations. How many of the other three-quarters of the investigations revealed that the law was not broad enough to cover the complaints? The people making the complaints felt that there was a discriminatory situation, but only one in four complaints was actually considered a violation of the Act.

A. DOUG KELLY

First of all, the idea that in every case where we do not find a violation, there is discrimination against women, is false. We receive lots of complaints that are completely unfounded. If the new legislation is passed in its present form, we estimate a 10-to-15 per cent increase in the number of violations found, so the numbers would increase substantially. The part of the new legislation dealing with successor rates -- where a woman replaces a man -- will have some impact as well.

MARION BRYDEN

That still leaves a lot of women not covered by the amendments. If we had equal pay for work of equal value in the legislation, can you estimate whether you would have to hire additional staff, or can your present equal pay team handle additional complaints? Perhaps once a law is on the books, a lot of people comply voluntarily, and you do not need staff for that.

JOHN SCOTT

If and when Bill 141 becomes law, I think we would be able to hire additional staff. For us to do the job effectively would require a considerable increase in staff. Yes, law is self-enforcing to a degree. Violations of law by employers under any standard is not deliberate. You are talking about

a particular standard that has a great deal of subjective evaluation. A great many employers feel they are in compliance with the law and would not deliberately circumvent it, but in applying the law we do find a fair percentage of violations.

Q. ANN BELL
NEWFOUNDLAND ADVISORY COUNCIL ON THE STATUS OF
WOMEN

Mr. Scott, you talked about education and the promotion of equal pay for equal work and said there were approximately 500 complaints since the legislation was enacted. Was equal pay for equal work really a problem? You also said you thought that education, not an adversarial approach, was the answer. You talked about having an educational programme for years. Is that for the employer? How do you define an "adversarial approach?" In my experience, every time we ask a question we are accused of using an adversarial approach. Do you define it as making a complaint? And what is the purpose of an educational programme if not to give people information to make complaints?

A. JOHN SCOTT

The adversarial approach is a part answer to the problem, and education is a large answer to the problem. A combination of both approaches must be used. You must educate both parties. Employees must know their rights: what the legislation is, how it is applied, what the intent is. You must make the same information available to the employer and ask that he co-operate with the concept of the law.

By "adversarial approach" I mean that in applying the law, you get into a direct confrontation with the thoughts of the employer. He simply does not agree with you, and you hammer out an answer that he is not in agreement with because he does not agree with the legislation. He does not accept the fact that a wage gap exists based on discriminatory practices. That is the sort of education that has to take place. Each is only a part answer to the problem. You need a degree of the adversarial approach and a great deal of education.

ALBERTE LEDOYEN

To me the issue here is the investigative procedure: Must it be initiated by complaints

only, or must it be initiated by the Commission? Second, would an educational programme be as suited to the situation as investigations?

One thing I want to say that I forgot to include in my speech was that for the first year and a half, the Quebec Human Rights Commission did not receive any complaints. We did not know why this was so, but guessed it was because the field we could penetrate was that of low-technology, unskilled labour. It could also have been because the economic situation was very bad, which probably made women afraid to lodge complaints.

In Quebec we had educational programmes, but they were directed to the trade unions. The unions are all linked to each other in federations, and they lodge most of their complaints during the negotiating process or right before. So it looks like there is a bias there, and personally I think it may be that the educational programmes were directed to the wrong group. It is not only unionized women who are discriminated against.

Q. LOIS BÉDARD
ORGANIZED WORKING WOMEN

Last year at a conference we were addressed by J.C. Perrault, and I would like to refer to a point made today by Mary Cornish that he made then. In his union there were many women, and in one sector of the union the majority of employees were women. The wages were disparate with men in another sector of the union doing the same work, and to equalize them the members negotiated equal pay for work of equal value in the two sectors within the same union. As soon as job opportunities came up, men and women flooded into that sector, and the pay equalized. There was no wage ghetto within the union.

I would like to know how many times it happens that job segregation disappears once a settlement is made and wages become comparable. The number of men and women change, and wage ghettos are eliminated by equal pay for work of equal value or even equal pay for work of similar value. That is one way we will break down wage ghettos. Having to compare substantially the same work under one employer, wage ghettos continue because of the attitudes of employees. How many settlements result in improved wages or in a change in the density of male and female employees doing the

work? What effects do settlements have in those areas where there are wage ghettos: If settlements are successful, does the wage ghetto continue?

A. TED ULCH

We have seen no evidence of men moving into female-dominated groups. We have watched for this with some interest, but it has not happened. We should generally see men moving into formerly female-dominated groups if wages are improved, but women do not necessarily move into male-dominated groups.

JOHN SCOTT

We have had instances where there was mobility, where what was formerly the "female" job became an entry-level job and where the next addition was promotion from within. Prior to our involvement, men went into the second-level job and women into the first-level job. This has sometimes changed so that everyone came in at the first-level job, and promotion to the second level was by internal posting.

LOIS BÉDARD

Did that internal posting to the second-level job have equal access? Was it monitored for equal access?

JOHN SCOTT

It's up on the wall, so I guess so.

LOIS BÉDARD

Until we have affirmative action and equal pay for work of equal value, all of these issues are long-drawn-out and are difficult for the victim to bear. But they can be as temporary as the job, which is nowadays often quite temporary. I was pleased to hear Alberte Ledoyen say that the Quebec Human Rights Commission has started to monitor what effect their settlements have had in the continuity of the progress of equal pay.

What concerns me, however, is that the Employment Standards Act applies to the composite factor only, not to affirmative action or to monitoring all new contracts that come in under the Labour Code. Should new contracts not be monitored for discrepancies in pay rather than after the victim

complains? Many contracts, and many settlements, are made below the level of the Act.

JOHN SCOTT

The Directorate deals with affirmative action, and the Women's Crown Employees Office deals with affirmative action within the Ontario public service. The Employment Standards Branch enforces the Employment Standards Act.

TED ULCH

The examination of a collective agreement per se is not conclusive proof that there is a violation, even though it appears that way on the surface. The language of the contract is very general and does not identify a discriminatory practice under the Equal Pay Section. We have examined certain collective agreements, yes.

Q. FRANCINE COSMAN
PRESIDENT, NOVA SCOTIA ADVISORY COUNCIL ON THE
STATUS OF WOMEN

If in a large corporation -- and in a business of that size there are a number of sectors -- there is no mandatory requirement to post wages, how does one group compare its wages with that of another group without hiring a detective? We find a non-mandatory posting requirement a problem. Also, Nova Scotia's labour code makes it an obligation to post the code's minimum wage clause. Our Council has suggested that the equal pay for equal work clause also be mandatorily posted in places of employment, because not enough complaints come in. If it was mandatory to post the equal value clause, the number of complaints would increase. This is a fairly easy educational tool. Is it obligatory in Ontario to post the clauses concerning equal pay for work of equal value and composite skills?

A. JOHN SCOTT

In unionized organizations, determining the pay differential is relatively easy, because it is in the collective agreement; the wages are spelled out there. But it can be a problem, particularly in white-collar areas and in small companies where no one knows what the next person is earning. If people suspect there is a wage differential, they should get in touch with us and give us a claim. We will investigate on their behalf, and we have

the authority to look at all the necessary records. There are sometimes difficulties in non-unionized settings, however.

With regard to posting, I would be very surprised if people in Ontario do not know about the legislation governing equal pay for equal work. I have some figures from the April, 1983 issue of the Employment Gazette, published in the United Kingdom. During the previous fiscal year they received only thirty-nine complaints -- from thirty-nine individuals -- and only eleven people benefited. We have a lot more people coming to us. I think people in Ontario are aware of the legislation.

GEOFFREY HALE

It is not our practice to require posting, and I wonder whether it would be that informative. But what you have suggested would be considered in Ontario as part of the educational approach. It would perhaps be more desirable to post an informative bulletin.

Q. FIONA MITCHELL
JOINT UNION JOB EVALUATION PROGRAMME
ONTARIO WORKERS' COMPENSATION BOARD

My question is for Ted and has to do with the administration of equal pay for work of equal value within the organization. I am interested in the wide variety of job categories examined in the Hay study. It seems to me the major problem with a universal job evaluation plan is that so many different types of work are being examined. Could you give us a little more information about how that plan actually measured -- and measured fairly -- the differences between work?

A. TED ULCH

The application of a single plan, or two plans that are vertically arranged, is the only way to determine the value of jobs within an organization. While I do not know the complete details of the Hay study, it measures the four criteria specified in our Act, although it does not call them that. There are statistical means available for weighting factors, if you are interested in the subject. The National Research Council in the United States has published a booklet called Women, Work, and Wages, and it devotes a chapter to weighting factors through multiple regression analysis.

ELEANOR RYAN

We could devote another two-day session to the techniques and complexity of job evaluation and the methodology. It is a big, complex subject and something the Council's Equal Pay Committee might look at next.

Q. SHEILA WARD
ONTARIO STATUS OF WOMEN COUNCIL

Mr Kelly, what does the Employment Standards Branch do after a person lodges a complaint? How do you avoid going to the person's company? If it is a company of 10 000 workers, you cannot ask to see everything. How do you zero in on the problem without jeopardizing the worker?

A. DOUG KELLY

We contact the person either at work or at home, whichever is most convenient. We interview him or her, then go to the company. We protect the sole claimant not covered by a collective agreement.

If the company has 10 000 workers, the task is relatively easy: We look at a whole department, branch, plant, a certain area of the enterprise. If it is a very small department, we look at several departments in the place, so that no one can be pinpointed. The problem is with a very small employer on Rural Route Number 6 with nine employees. The inspector cannot say he just happened to be driving past and dropped in. But we make the claimant aware of any potential problems, and we do everything possible to protect him or her. The legislation also provides protection: If any punitive action is taken against the claimant because he or she sought protection under the Act, we in the Employment Standards Branch can, and have, prosecuted employers and protected the employees.

After we visit a company we talk to senior management; we do payroll record audits; we look at any other information such as job evaluation plans; we examine personnel practices; we look at collective agreements and job descriptions; we talk to the people who do the jobs -- in camera with no one else present; we observe the work in progress. Sometimes we actually do the job: If someone says something is heavy, I pick it up to see for myself, and so do the other officers. Then we do full and

complete job analyses that describe the jobs and compare them to see whether or not they are substantially the same. If they are and there is a pay difference, the next thing is to find out why. It may be that there is a seniority system, and the claimant has not been with the company as long as someone else. We check the payroll to see whether it verifies the explanation we are given.

JOHN SCOTT

When we formed the equal pay team, our objective was to carry out routines -- to simply walk into an employer without complaints and do an analysis of what exists. We have not been able to do this as much as we had intended because of the complaint load, but 40 to 50 per cent of our cases have been routine investigations. And, of course, we find violations. The ideal way to operate is to have sufficient staff to be able to carry out routines in addition to just operating from complaints.

Ted said he operates with three officers who specialize in equal pay -- they could never handle routines. I hope that under whatever new legislation we get in Ontario, we can continue to do routines. They are essential. Female employees are often afraid to identify themselves, so it is important to carry out a sufficient number of routines, publicize the results, and use them as a tool to influence management. This ties in with the educational aspect.

Q. PAULINE BARTON
UNIVERSITY OF TORONTO

Mr. Ulch, is the federal government planning to make any changes to its job classification system? I understand it divides jobs into fairly narrow occupational groupings. How do you apply the concept of equal pay for work of equal value under that system?

A. TED ULCH

You are quite correct that the federal government's classification system does segregate occupational groups. There are approximately seventy-two classification plans, one for each distinct group within the public service. In dealing with complaints filed under Section 11 of the Act, we advised the Treasury Board in 1978 or 1979 that we could not investigate complaints using its system.

It then developed its "master evaluation plan," and it is still working on it. As an interim measure we are using the Aitken job evaluation plan.

We have also urged the Treasury Board to undertake a voluntary compliance programme within the public service to examine the various occupational groups and categories with the idea of eliminating wage differentials on a system-wide basis. Considering the size of the organization, that is a formidable task; it will probably take several years to review all the groups.

One of the practical problems we have is that when we look at two groups and find discrimination, all we are saying is that one group vis-a-vis the other group is being underpaid by X number of dollars. If we look at the whole category with perhaps thirty-six groups in it, we might find that that particular group vis-a-vis all the male groups should actually receive X plus \$100 or X minus \$100. We are working on guidelines right now to deal with that problem, among quite a few others.

Q. CATHY GIBSON
CONSULTANT, AFFIRMATIVE ACTION, FEDERAL GOVERNMENT

I am concerned about the educational process proposed by the Employment Standards Branch. As a consultant, I talk to employers about the merits of adopting voluntary affirmative action programmes and then provide them with technical assistance. I am always impressed by how much information the employers have, perhaps from the Canadian Rights Reporter. They often go to personnel association courses, etc., keep up with the legislation, and generally have quite a high level of sophistication about what is going on.

We must not underestimate employers and their ability to grapple with the issues. Employers may have misconceptions about equal value, but they certainly have a sense of what it is about. Employer education is important, but employers have resources to get information. It is the employees and people in high school and public school who do not have the resources to find out what they are up against in the working world. Any kind of educational programmes should be focussed on those groups.

A. DOUG KELLY

Cathy, as a consultant to employers, you must be working in more than just the federal jurisdiction. How many of the employers you speak to are small employers? I suspect that if they are small, they are not sophisticated and do not have much knowledge of the legislation. We do seminars in other areas of the legislation, and we find the problem employers are the small employers. We have to know how to reach them.

As far as educating employees is concerned, we do talk to schools, personnel associations, union groups if we are contacted by them. This is in addition to the efforts of the Women's Bureau and the Women's Crown Employees Office.

THE WAGE GAP: ITS CAUSES AND EFFECTS

HOW TO REDUCE THE WAGE GAP

MODERATOR: ELEANOR RYAN
CHAIRPERSON, EQUAL PAY COMMITTEE
ONTARIO STATUS OF WOMEN COUNCIL

LIZ MCINTYRE
LABOUR LAWYER

I will be speaking today on the use of affirmative action programmes to reduce the wage gap. We all know that working women earn only about 60 per cent of the wages of their male counterparts. Women are also largely confined to a very narrow range of occupations, mainly in the clerical and service fields. Although this is an international problem, the situation in Canada is very bleak. In a study conducted by the Organization for Economic Co-operation and Development in 1980, evaluating wage disparity between men and women, Canada was rated nineteenth out of nineteen countries.

There are a number of explanations offered for the wage gap: differences in educational patterns between young men and women, differing levels of unionization, and differing commitments to the workforce. Many people have blamed the wage gap on myths about working women: Women want to work only part-time; they work only for pin money; because of various responsibilities and ties, they are less committed to their jobs. We know that the truth is that a large proportion of working women in our society works not only because it wants to work, but because it has to work. Working women are married, single, and divorced. They encompass all ages; women with and without children are working.

Why are women earning only approximately or less than two-thirds of what men earn? There are a number of reasons. First, women work in job sectors that are lower-paid and less unionized. They also, within these sectors, work at jobs that are lower in rank and usually lower-paid. Put the other way around, women are denied access to the higher-paid, higher-ranking jobs, and this is the problem that affirmative action programmes can address.

Why do we need affirmative action programmes? Although Ontario and every other jurisdiction in Canada has legislation ensuring equal treatment in employment, in spite of this, our goal of equal opportunity has not been realized. The reason why current legislation has not alleviated the problem is because of the approach of human rights commissions. The commissions' approach is first of all through education and second through the adjudication and redress of individual complaints. The result of their approach is that much overt discrimination has been significantly reduced, but



systemic discrimination has not been eliminated. Systemic discrimination is the result of employment practices that are built into an employer's system and that, while not blatantly discriminating against a minority group or against women, do so in application. Affirmative action programmes can address this problem.

Affirmative action programmes require taking positive steps to overcome the effects of past discrimination and systemic discrimination as distinct from simply ceasing to discriminate. It is an organized plan designed to give women in the workplace the same opportunities as men. It ensures the equality of opportunity that, hopefully, will lead to equality of results.

True affirmative action programmes have four characteristics. First of all, equal opportunity is measured, and permanent changes are made to the employment system to eliminate overt discriminatory practices. Examples are eliminating gender-based qualifications and eliminating pay differentials between men and women performing the same job.

Many programmes undertaken by employers under the voluntary system of affirmative action are really only equal opportunity measures. They are not true affirmative action programmes. In order to achieve a true affirmative action programme, the employer must go further and include goals and timetables: goals for the proportion of women that will be included in particular sectors of the workforce and timetables for the accomplishment of these goals.

The third characteristic of a true affirmative action programme is that it should include remedial measures to redress past discrimination by providing special benefits to disadvantaged groups, for example, special training programmes for women. Fourth, such a programme should include support measures, which are permanent measures to alleviate problems specifically affecting one group, for example, the provision of daycare programmes for women workers.

There are many advantages of affirmative action programmes over the traditional approaches used by the Human Rights Commission in the litigation of individual complaints. The first advantage is that affirmative action programmes are progressive in nature. They are not restricted to redressing a wrong that has occurred in the past, but rather look to the future to see how these wrongs can be alleviated.

Their second advantage is that they attack the problems at a systems level rather than at an individual level. It would obviously take forever if every woman in Ontario who is being discriminated against had to bring in an individual complaint. It is much better to look at the system as a whole and come up with a remedy that is going to benefit a large number of women at one time.

The third advantage of affirmative action, and what has been experienced in the United States where affirmative action has been implemented in a much more meaningful way than in Canada, is that affirmative action programmes are much better received by employers than litigation of individual complaints. It is much easier for employers to look at a positive programme that will give them the chance to improve their systems rather than being accused of discrimination against a particular individual. When employers are accused of discrimination, they become understandably very defensive and negative.

The fourth advantage of affirmative action is that it works. We have had human rights legislation in this province and this country for a long time, and it has not worked effectively to reduce the pay differences between men and women in the workplace. Affirmative action has been shown to work in the United States. The reason why there has been much more experience there than here is because American courts have on a number of occasions ordered affirmative action plans as a remedy for past discrimination. This has not happened in Canada to any great extent, because our legislation does not empower our courts to apply this remedy and because discrimination complaints very seldom get to our courts.

A second and more important reason why there has been more experience in the U.S. is that the American government has implemented a programme of contract compliance. This means that affirmative action plans are required to be a term of any contract the federal government signs with a company for goods or services. Every employer with more than fifty employees on a contract worth more than \$50 000 must file a very specific affirmative action plan. This encompasses one-third of the American workforce and has proven to be very effective in implementing affirmative action plans. If the employer does not comply with the plan, the government can either sue for compliance on the contract or cancel the contract.

This system could be be very effective if it were applied in Canada, because a large number of businesses

have contracts with the federal government as well as with the provincial governments. So far, however, the legislatures in this country have not seen fit to implement a contract compliance programme to any meaningful extent. Because Canadian experience has been so limited, governments have relied on educating employers, encouraging them to institute voluntary affirmative action programmes. Where these programmes happen at all, they have very often contained only the types of equal opportunity measures I spoke of before. They do not establish quotas or timetables for effectively achieving the required results, and courts do not order affirmative action.

There have, however, been two cases in Ontario where boards of inquiry have ordered an employer to embark on some sort of affirmative action programme. These have involved Beneficial Finance and the Liquor Board of Ontario. However, in both cases, because of the limited powers of the court under the Ontario Human Rights Code, the required programmes were not as specific as they could have been.

Both the Ontario and federal governments have embarked on affirmative action programmes within their civil services, with some success. For example, in Ontario the executive plan is that plan at the highest level of the civil service. In 1977, 3.9 per cent of this group was women. In 1982, 6.9 per cent was women, so that shows some increase. Assuming that rate of gain, it will take only eighty-three years for the percentage of women in senior positions to reflect the proportion of women in the civil service as a whole. It could move a little more quickly. There is, however, no contract compliance, and from any statistics I have seen the voluntary programme has not been successful.

There are those who argue that affirmative action programmes are reverse discrimination, and there have been a number of cases in the U.S. and Canada challenging affirmative action programmes on that ground. This is merely a claim by the majority that they are entitled to continue to reap the benefits of past discrimination: It is not a persuasive argument to say that affirmative action programmes that are established to eliminate discrimination can possibly violate the human rights codes that are designed for exactly the same purpose. However, there are some courts that disagree with that view.

Fortunately, most Canadian human rights legislation now specifically protects affirmative action programmes; Section 15.2 of the Canadian Charter of Rights and Freedoms qualifies the equality provision of the

Charter to protect affirmative action programmes or any programme designed to benefit the disadvantaged. The argument of reverse discrimination is very much limited by those provisions.

In conclusion, bona fide affirmative action programmes are not reverse discrimination. They are effective, positive means of tackling the problem of discrimination in employment. They are more effective than dealing with individual complaints. Combined with an effective programme for equal pay for work of equal value, they can have some effect in reducing the wage gap.

JUDITH RAMIREZ
INTERCEDE

Three years ago it was driven home to me just how unprotected live-in domestic workers are in this country. The CBC National News interviewed me, and one of the domestic workers from our steering committee who is from St. Vincent, Mary, talked about sitting in the office of Employment and Immigration Canada and watching her employer and government officials signing the papers under the Temporary Employment Authorization Programme so that she could work in Canada. It is something domestic workers themselves were not a party to -- they signed nothing. She said she felt she was being bought and sold like a slave. There was complete absence of legislation to protect her.

At that time live-in domestic workers were completely excluded from all protective legislation in Ontario. They were explicitly excluded from all provisions of the Employment Standards Act, the Worker's Compensation Act, the Labour Relations Act, and the Human Rights Code. They came to Canada under temporary work permits, and their employment "contracts" merely suggested a pay rate of \$75 per week plus room and board and a forty-five-hour work week. The "contract" was not monitored, much less enforced. It meant, according to the Montreal Household Workers Association, earning \$50 for a fifty- to sixty-hour work week. If you tally it up generously, it is about \$1 per hour, and if you tally it up with room and board, it goes up to the princely sum of \$2. This has been the historical reality for live-in domestic workers in Canada and Ontario.

The unprotected state of domestic workers reinforces more than anything else society's view of the value, or lack of value, of housework. It is not seen as real work but as some sort of spontaneous animation of the female character -- something women do because we just do, because we were born to it. It is part of women's so-called "nature," and it happens in the private realm of the home, completely outside the economy and market relations.

Anyone tackling the problem of equal value and the wage gap between men and women must come to terms with the fact that the value of female labour in our society is set in the home at zero, and we all feel the effects and handicaps of that valuing. It is no accident whatsoever that in the hierarchy of female labour, the

lowest-paid labour is that of the domestic worker who does housework for other people for pay. She is the closest link to the realm of unpaid work in the home, and she toils in the location and under the same conditions as the housewife has for so many generations, producing goods and services for no money.

Several years ago, before there was any legislation in Ontario, Intercede listened to a debate at Queen's Park and was quite struck by the fact that the arguments the politicians were making for not bringing domestic workers under the Employment Standards Act and other protective legislation were exactly the same arguments for not paying housewives: "We don't want to interfere with the private relationship in the home between employer and employee ... Domestics are part of the family ... It's not the same kind of relationship that exists in an office or factory ..." There was also an enormous amount of talk about the sanctity of the home. The reality, however, is not so much the sanctity of the home but the sanctioning of exploitation: Women work very long hours for very low pay and with very little respect for what they do.

The provincial laws were finally changed in 1981, and domestic workers now get a minimum wage, seven statutory holidays per year, two weeks' paid vacation a year, and thirty-six consecutive hours off per week. This was a very critical step, and Intercede, like many other groups, fought long and hard to achieve it. It was the first small step toward recognizing domestic workers as part of the ranks of real workers and as deserving and needing the protection that everyone else can take for granted.

But the present laws still reflect and reinforce the low status of housework. There is a lower minimum wage for domestic workers: They earn fifty cents less per hour. They are not covered by the hours of work in overtime provisions of the Employment Standards Act, so that except for the thirty-six consecutive hours off, for 132 hours a week they can be either working or on call. This reduces the hourly rate from \$3 to \$1.

Because domestic workers live where they work, the 132-hour work week should not be quickly dismissed as an exaggeration. One of their most frequent complaints is that even at the end of the day -- eight or nine p.m. -- many employers think nothing of asking them to serve drinks if a friend drops by. They sometimes have to get up during the night if a child is crying or is sick. The never-ending work day and work week must be curtailed.

The other way the laws reflect and reinforce the low status of housework is that there is still no coverage under The Worker's Compensation Act or The Labour Relations Act. Domestic workers are explicitly prohibited from organizing themselves into a union.

In a meeting a couple of months ago with the Minister of Labour, Russell Ramsay, we wanted to impress upon him the political and philosophical issues involved in the exploitation of domestic workers. We quoted from the 1981 report on domestic workers published by the Task Force on Immigration Policies and Procedures. It said that "...even when such work is done by the traditional wife and mother, it has not been accorded much economic recognition, so it is not surprising that the person who substitutes for the undervalued housewife is herself undervalued economically." We said that by regulating a below-standard minimum wage for domestic work, the provincial government has reinforced the traditional prejudice against work in the home.

There is the same problem with federal immigration policy. That law also changed in 1981. Foreign domestic workers who enter Canada with temporary work permits now sign contracts with their employers. Hours of work, their duties, and time off are stipulated. Employers are supposed to be blacklisted if they do not comply with the contract. So we now have formal provisions where before we had none. But the most important thing is that after two years of working continuously in Canada, foreign domestic workers have the opportunity to apply for landed status and can remain in Canada permanently if they meet certain assessment criteria.

In 1981, 11 000 live-in domestics were living in Canada. Two-thirds of them live in Ontario, two-thirds of those in Metropolitan Toronto. Under the new federal law they must be offered at least 25 per cent above the minimum wage in order to be able to come to Canada. In Ontario that is \$710 gross per month, from which room and board, CPP, UIC, taxes, etc. are deducted.

In Ontario there is now the absurd situation where when a foreign domestic worker is accepted for landing, she reverts to the so-called "protection" of the Employment Standards Act, with the legislated minimum of \$568 per month. For the privilege of becoming a permanent resident of Canada, she takes a pay cut of \$142 per month. She loses the protection of the federal contract and is at the mercy of the low salary level and the weak Ontario laws governing domestic work.

Domestic workers who want to remain in domestic work after they become landed in Canada must prove self-sufficiency. But the provincial laws are so weak that to earn a self-sufficient wage in domestic work is practically a contradiction in terms. The domestic worker is therefore in a Catch-22 situation.

Most domestic workers who wish to remain permanently in Canada take upgrading in other fields, because the pay is a lot higher and the opportunities greater. Most of those who do not are older black women from the Caribbean, and domestic work is all they know how to do. A lot of them do not want to go into another line of work, and Intercede feels very strongly that they should be able to remain domestic workers and still be economically self-sufficient. They should not be having such a hard time qualifying for landing, and Intercede believes this is a major weakness in the federal policy. The strongest negative impact of the present provincial and federal laws is on Third World women.

John Scott of the Employment Standards Branch has complained to us that too few complaints are made by domestic workers, implying that things may not be as bad as Intercede says. However, one must look at the personal implications of the law. Domestic workers have always lived in fear of reprisal by their employers; they have often been only one phone call away from deportation. Under the present system, employers have so much power that the domestic worker is fearful of exercising whatever rights she has. In addition, the domestic worker does not want to risk her stable working relationship with her employer, because immigration officials examine this if she later applies for landed status. Thus the domestic worker is caught between the federal and provincial laws, which are too weak to really benefit her.

Intercede has called on the provincial government to make two immediate changes: first, to bring domestic workers' wage up to the standard minimum wage; second, to regulate the hours of work and overtime so that they can be monitored. Intercede feels that these changes would alleviate the two most glaring problems of domestic workers. Their low pay and its legal sanctioning work against all women. They depress the wages of all women and the value of female labour in general. Anyone who wants to close the wage gap between women and men must first close the wage gap among women, particularly white Canadian women and Third World women who come to this country to do the hardest and lowest-paid jobs, chief among which is live-in domestic work.

EDITH JOHNSTON
ONTARIO FEDERATION OF LABOUR
RESPONSIBLE FOR WOMEN'S ISSUES IN THE UNITED AUTO
WORKERS

As we head into 1984, Canadian women are still asking for equal pay and equal opportunities. The problems of working women are starkly illustrated by a few facts: Women earn on average about sixty cents for every dollar earned by men. This wage gap exists at all age levels and in all occupations. Even higher education does not substantially improve chances for equal pay. One reason women earn less than men is because women remain concentrated in pink-collar job ghettos such as clerical and secretarial work, health care, retail sales, domestic work, and other service occupations.

A second and no less important reason for the wage disparity is that women's jobs have been undervalued compared with those of men. A recent Ontario government study showed that two-thirds of the gap between men's and women's wages was caused by sheer, baseless discrimination. A clear example of wage discrimination in the United Auto Workers was found in the Stratford local agreement where male sweepers were paid higher wages than women machine operators. That local is now trying to reduce that wage gap with a recent clause that gives the machine operators five cents an hour more than the regular wage increase that everyone received. That is one of the ways that collective bargaining can deal with discrimination.

Other examples of this discrimination are in the major retail food chains, where supermarket cashiers who are 99 per cent women earn less than the predominantly male grocery clerks. Another example in the United Auto Workers is in the De Havilland Aircraft plant where an entry-level, Grade One male sweeper in the plant makes \$474.80 per week including COLA (cost of living allowance), while an entry-level, Group One female clerk in the office makes \$410.00 per week including COLA -- a difference of \$64.80. If you weight the skill, responsibility, etc. of these jobs, they should be about equal: I am sure that office clerks require Grade Twelve education, and many of the plant workers must have Grade Nine or Ten. Negotiations are therefore continuing in the aerospace industry, too, to try to bridge the gap.

Because of this discrimination, many working people have gone beyond the concept of equal pay for equal

work to embrace the demand of equal pay for work of equal value. This latter demand ensures that men and women earn equal pay for doing different jobs if the jobs are of equal value to the employer. There is no validity to the argument that it will be economically harmful to society to implement equal value legislation, when in the so-called "good times" there was no rushing around to implement it.

But we cannot wait. Statistics prove that women are not working for pin money. In 1980, 30 per cent of women in the labour force were single; 10 per cent were widowed, separated, or divorced; another 40 per cent had spouses earning less than \$16 000 per year, which for a two-child family is the poverty level. The concept of equal pay for work of equal value is already at work and protected by federal and Quebec law. Under the Canadian Human Rights Act, federal employees can file complaints with the Canadian Human Rights Commission, charging wage discrimination if they are not paid equally for jobs of equal value. Investigations are based on four major categories: skill, effort, responsibility, and working conditions.

Unions have been trying to close the wage gap by having contract clauses written into collective agreements to recognize the special role and needs of women. No discrimination clause allows a union to grieve such things as sexual harassment, unequal pay, etc. Parental leave, maternity leave with full pay, continuation of seniority, and adoption leave should all be part of contract negotiations. Because about 40 per cent of the labour force is single, divorced, or widowed, child care provisions are most important.

The same Stratford local I mentioned earlier recently added adoption leave to its workers' agreement and bargained for two cents per hour of all workers' wages to go into a fund that would eventually provide child care. Also negotiated were provisions for a joint committee to be set up to study the feasibility of getting additional funding from other sources. The local has a woman president and mainly a women's bargaining committee. So an extensive education system within an organization or union on attitudes and what should be negotiated pays off in the end. We have been able to change the attitudes of our male staff representatives, who bargain with the local committee, about what should be bargained for and why.

There must also be an affirmative action programme to obtain the following: equalization of male and female base rate; paid-education clauses to ensure universal access to education; job evaluation programmes that

provide for a system of points to be allotted for the categories of skill, effort, responsibility, and working conditions; accumulation of seniority during parental leave; broadening of the seniority base; access to a wider range of jobs; bridging of service provisions; union representation on hiring and promotion; panels to ensure no discriminatory questions are asked; union input into training programmes and who attends; and, of course, child care.

The Ontario Federation of Labour recently made history by amending its constitution and by-laws to ensure the election of five more vice-presidents who are to be women and who will bring the total to twenty-one. In the past there was only one woman vice-president. This kind of affirmative action programme requires a lot of work, preparation, and education, not only within the OFL Women's Committee, but also in all other affiliates, on the convention floor, and in every hospitality room and caucus room.

I am proud to belong to an organization that has put some affirmative action into place. In order to pass policy papers on daycare and sexual harassment, we have had to build up a lot of women's caucuses, which include men, too. But women have to get together into groups, educate themselves to build up their self-security and to become aware of the issues, and motivate other people within the movement.

However, unions cannot win this struggle alone. Before clauses and amendments go to the bargaining table, they must be approved and voted on by local membership. It requires a lot of discussion before complete agreement is reached. Before the Stratford local decided to allocate two cents per hour in workers' wages to a child care fund, a lot of older women had to be educated to change their attitudes and accept such a decision. The other party at the bargaining table must also be committed to wanting equality in the workplace.

Union action is only one of the first steps in the struggle to win full equality in the workplace. We must have legislation that provides for equal pay for work of equal value. We must move from voluntary to mandatory affirmative action. We must have extensive educational programmes on attitudes, socialization of women in society, stereotyping, etc.

Equal pay for work of equal value should not be identified as a women's issue. A wage system free from discrimination benefits all workers: It prevents one group of employees from being pitted against another. Equal pay legislation would eliminate the gap between

full- and part-time employees that continues to exist in some agreements. It would put an end to the practice of using part-time workers as a source of cheap labour, which in some cases results in the loss of full-time jobs. Implementing equal pay for work of equal value will not happen overnight, but its time has come. We must move toward a system that provides greater justice for a greater number of people.

Labour is an equal partner in society today, and because of its expertise, policy papers, and women's issues programmes, labour should be consulted in the planning of seminars such as these to ensure lots of labour representation.

QUESTIONS AND STATEMENTS FROM THE AUDIENCE
AND RESPONSES BY THE PANELISTS

Q. ANN BELL
NEWFOUNDLAND ADVISORY COUNCIL ON THE STATUS OF
WOMEN

Judith, is it true that there is no province in Canada that provides the same minimum wage for domestic workers -- that every province has a different minimum wage? It is. We believe that the minimum wage should be paid to all workers. There should not be a separate category for domestic workers.

In Newfoundland domestic workers are chiefly employed for child care and are paid the minimum wage for it, even though many of their employers can well afford to pay much more than that. The government shirks its responsibilities here by saying that some women who must pay for child care cannot afford to pay the minimum wage, because they themselves are earning the minimum wage. The government is also getting off without providing daycare. Do you have that problem in Ontario, too?

If governments made wages of child care workers and domestic workers fully tax-deductible, would that not alleviate to a large extent the problem of people not being able to afford to pay the same wages for domestic workers and child care workers as they do to other staff?

A. JUDITH RAMIREZ

Ontario is shirking its daycare responsibilities, too. It says the problem is not as bad as we make it out to be, but we all know how bad the record for daycare is. Ethically, society cannot meet the needs of working parents by exploiting another sector of workers. We have to decide what sort of society we want. This was also the whole issue of the federal immigration policy: There was an enormous need for live-in domestic work, but the government kept wages artificially low by bringing in women who were a captive labour force. There is no justification for a below-standard minimum wage for domestic work; there is no convincing argument. It gives me great pleasure now to see politicians embarrassed to even put forward those kinds of arguments. They ought to be embarrassed.

Intercede has been advocating for a long time that the full cost of child care should be fully tax-deductible. The person you employ in your home to take care of your children should be treated just like any other business expense.

Q. VALERIE WATSON

Judith, is there any associaton or anyone doing education with domestic workers in order to help them get around their problems of obtaining landed status?

A. JUDITH RAMIREZ

Generally, the Canada Employment and Immigration Centres provide counselling, but they are far too busy to do it. The Minister has asked Intercede to recommend improvements to this situation, and we have advised transferring responsibility for counselling from the government jurisdiction to the community. After a year of hard work, we now have a grant from Employment and Immigration Canada to set up a service unit here in Toronto. We will hire and train two landed, visible-minority domestic workers to provide counselling for their fellow workers still going through the system.

Q. MARION BRYDEN
MPP FOR BEACHES-WOODBINE AND NDP WOMEN'S CRITIC

I am pleased that this conference included a speaker on affirmative action programmes. It recognizes that affirmative action is an essential part of implementing equal pay for work of equal value and that we need both to overcome the wage gap.

Liz McIntyre, what model would you consider appropriate for affirmative action? We don't have any mandatory affirmative action legislation in Canada yet. The Quebec one is not yet proclaimed, but it would be the first. You mentioned the need for goals and timetables for remedial action for support services. Would you also consider it essential that workers and management jointly prepare affirmative action programmes? Would that be part of model legislation? Second, would the courts be given the power to implement remedial programmes? Third, should there be a government monitoring agency to see whether the goals and timetables drawn up are being met?

A. LIZ MCINTYRE

Part of the problem in Canada is the question of which level of government has the jurisdiction to deal with affirmative action. The United States government has jurisdiction over contracts and employment matters. In Canada jurisdiction lies mainly with the provincial governments, except that the federal government has jurisdiction over federal government employees as well as employees in banks, the trucking industry, etc. So already there is a problem of jurisdiction. Contract compliance is a better system, because the government can impose affirmative action without jurisdictional problems.

Any affirmative action programme should involve representation by the employee, as well as by the union if the workers are unionized. Unfortunately, there are many situations where employees are not unionized, so they have to have some other type of involvement. An essential part of the programme is to analyze the current system to identify the reasons for the unequal distribution of work between minority groups and between men and women. It means a very sophisticated analysis of existing problems.

There should absolutely be goals and timetables. There must be a very rigorous monitoring programme to get employers to comply. There must also be effective remedies for the system to go through the courts. Again, contract compliance is the better system, because the government has more clout. Cutting a company off from government grants or contracts is a very immediate penalty, something that will inspire the company to make affirmative action work.

MARION BRYDEN

It is a good step, but it is not fair to the people who do not work with a firm that has a contract.

LIZ MCINTYRE

That is very true. Then you have to take the next step and provide legislation for all companies. But at least it is a start, and it is usually major companies that are involved.

Q. The wage gap is the really fundamental issue here, and Judith Ramirez related it to the value of female labour as a whole and to women in society generally. The issue really is to change people's attitudes, make them perceive women as human beings -- raise women's consciousness. We need legislation, of course, but we need to be aware of ourselves as human beings and accept that responsibility. A lot of women do not; they prefer to let the legislation obtain their rights for them. What are the panelists' views on this?

A. JUDITH RAMIREZ

I do not think there is any such thing in our society as women being considered just people. Our sex and the stigma of unpaid and low-paid work cling to us like a second skin. We must understand that this is our primary handicap. We can make strides in any other issue, but until we have wrenched apart that identification society makes between the female sex and unpaid and low-paid work, we will not have got at the underlying disease.

This identification is felt most acutely by women of colour. That is why the cause of domestic workers' rights is so important to the entire drive for women's rights. Every white, educated, middle-class woman who is trying to advance in her field -- be she a housewife who wants more respect and to be on a par with her husband or the career woman who wants the same promotional opportunities as her male colleagues -- has to reckon with the black or Filipino woman who is home scrubbing her floors. As long as the domestic worker is not protected by legislation and is paid an inferior wage, it affects every other woman. It is a fact the woman's movement has not come to terms with.

LIZ MCINTYRE

The legislation and the law can help us only to a limited extent. They must go hand in hand; each affects the other. I am very excited about the equality provisions of the Charter of Rights and Freedoms, which grant us equality with men -- although not until 1985, when the provisions come into effect. They can have some exciting applications. For example, the problem of domestic workers' unequal treatment under the Employment Standards Act can very well be challenged. These challenges through the law will hopefully have great impact on attitudes and educate men and women

that everyone is equal. Hopefully the two things can work together and influence each other.

- Q. I want to respond to a statement made by John Scott that he had received only 500 complaints and is beginning to wonder if there are any problems out there. But we are here precisely because there are problems, and this kind of attitude is thrown in our faces all the time by people who treat women's problems so lightly. Perhaps there is something wrong with the bureaucracy itself that explains why people are not coming forward. It is extremely difficult for some people to get up and make representation to the government on an individual basis, for example, immigrants who cannot make their requests known because they cannot write them down and feel intimidated by using English. Perhaps the government should use a multilingual approach to the problem and consider better ways of disseminating information. It might improve the number of complaints.

A. JUDITH RAMIREZ

We hear over and over again that there are no complaints. Generally, it is a common fault of government and its officials: They set up their infrastructure, for example, a complaint bureau, and if they do not get complaints, they immediately conclude there are no problems.

I think the role of organizations like Intercede and other community-based groups is that they know the problems, because they are in touch with the community as well as with government officials. Until we build the level of power of groups like domestic workers so they use the complaint structure, we have to find other ways to make it clear to government that there are, indeed, problems even if the women are not using complaint procedures. Immigrant organizations have suggested more multilingual services to the government without a lot of success. The foreign domestic worker is not legally entitled to any services of community groups, and these organizations do not get money for providing aid to a foreign domestic worker. So while the Employment and Immigration Centres cannot provide necessary counselling for domestic workers, these women cannot use the services of any community-based organization, either. Intercede got its funding for its service unit by breaking the rules. We have to convince governments to do something out of the ordinary.

LIZ McINTYRE

The fact that the government is not being overwhelmed with complaints does not mean there are no problems. It just means that the complaint mechanism does not work. Government people do not understand the reality of the workplace. Any employee -- whether a sophisticated employee at the professional level or an immigrant worker -- knows that if she makes a complaint about her employer, she is going to suffer repercussions. They may not be immediate acts of termination, but there are ways and means; that is why government is not getting complaints. That is why assistance approach, like affirmative action, is the way to deal with the problem. You do not need individual complaints to know that women are not being paid as much as men. Statistics prove it. We need another approach to deal with the problem.

SUMMATION
CETA RAMKHALAWANSINGH

This forum is very much the beginning of a discussion that was instituted by the Council and the Equal Pay Committee. What we have tried to do is cover the specific concept of equal value from a philosophical standpoint.

John Whitehouse from the ILO said over one hundred countries had ratified Convention 100, but the implementation of the Convention was subject to national conditions. Rita Cadieux from the Canadian Human Rights Commission told us that a few years ago they had very limited experience with implementation, but today they have more detailed tools and technical capacity. Bob Sloan from the Canadian Manufacturers' Association and Geoffrey Hale from the Canadian Organization of Small Business said that implementing employment standards legislation means too much government interference in the economy. The impact of such legislation would be detrimental to small businesses in particular. Mary Cornish of the Equal Pay Coalition said that women in fact subsidize men's wages and that employers' groups and women's groups have different interests.

The discussion then moved to how existing legislation is implemented, which is why there was so much input from government officials. Ted Ulch of the Equal Pay Section of the Canadian Human Rights Commission suggested that equal value is the only kind of legislation that can address occupational segregation, one of the key issues to be discussed during this forum. He said that of the seventeen complaints received, 4600 affected people directly. They involved some \$20 million in back pay and another \$12 million in ongoing payments. He pointed out a difference between the federal and Ontario legislation: Federally, sex has to be one of the bases of the complaints before determining equal value, whereas in Ontario sex is not one of the criteria that is particularly looked at.

Alberte Ledoyen, representing the Quebec Human Rights Commission, differentiated between the kinds of cases her Commission investigated in terms of equal pay. About 3500 people have benefited under the equal pay components of the Quebec Charter of Human Rights and Freedoms. They have had limited experience with the equivalence section of their legislation, which also deals with the structure of the workforce. They have

spent a lot of time dealing with trade unions' employment policies, and once they began conducting investigations, they found that the issues of discrimination were not easily distinguishable -- they identified a range of problems, and wages were just one. Alberta also said the Commission was following up its decisions; I do not believe that is being done in Ontario.

The presentations made by John Scott and Doug Kelly from the Ontario Ministry of Labour's Employment Standards Branch discussed the existing legislation and the proposed amendment to it. They presented some interesting statistics: Of the close to 700 complaints, half were undertaken on the basis of routine investigations, something the federal people have not been able to do up until now.

Mr. Kelly said they keep files on the actual complaint information -- on the complaint and the complainant -- as well as information on the organization. When the legislation is extended, this will provide a very good history of discrimination in some companies. He also said most of their work is in non-unionized areas, and he outlined the process of complaints.

Some general issues were raised in the question sessions, and one was the need for education. The question was asked that given the federal legislation has jurisdiction over banking and federally legislated agencies such as the communications industries, why have there not been more complaints from people working in those areas? That brings me to this afternoon's session. Let me mention some general issues that were raised.

One point made over and over again was the limitation of existing legislation, not only with respect to occupational segregation, but also with respect to domestic workers and other people not presently affected, such as people who fall into the independent contractor category and who are not defined as employees. We must also examine the relationship of various pieces of legislation: The Labour Relations Act, The Employment Standards Act, and the Human Rights Code.

We will probably have to have other methods of enforcement, although no specific methods were discussed. We have to deal with training, organizing, and educating employees and the impact of the Charter of Rights and Freedoms on the future direction of women's employment status. The factors and issues that go into job comparison -- skill, effort,

responsibility, and working conditions -- should be widened to include some of the other supporting issues that affect women's employment status. There are a lot of groups who are covered by the legislation but who cannot gain access to the complaints process, immigrant workers in particular.

CLOSING STATEMENT**SALLY BARNES****PRESIDENT, ONTARIO STATUS OF WOMEN COUNCIL**

Ladies and gentlemen: We have proven what we have known for a long time -- that men do not have the great staying power that women do: There are about three men left. All of the members of the Status of Women Council are very pleased at how this day and a half went on a pretty heavy subject. But we have only begun. There will be more sessions.

I want to take this opportunity to thank Eleanor Ryan especially and the members of her committee. Edith, you expressed some concern about the involvement of the Ontario Federation of Labour at seminars such as this. As long as Eleanor Ryan is on the Ontario Status of Women Council, organized labour in this province is very well represented.

We have no clear-cut answers to the very complex problem of equal value, but we knew that when we began, and that is why we are going to carry on. We have felt here the frustration of how long it takes to get things done. We have felt anger about the lack of progress and about how big the problem and the challenge are. But the responsibility is widespread. It involves business and employers, large and small, unions and governments and women ourselves. I urge you to continue your pressure on governments, as will the Council, and to be very critical of those who are insensitive or unsympathetic to the issues raised here. And, of course, be supportive of those who are sympathetic and sensitive. Thank you.

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